



Badger Disposal of WI, Inc.
5811 W. Hemlock Street
Milwaukee, WI 53223

Badger Disposal Analysis Form

Generator Site Information:

Syn Chem Inc.
1400 Chase Ave.
Elk Grove Village IL 60007
ILR000157131

Manifest Document #: 001144157GBF
Waste Stream #: WS020134
Approval Code: WS020134
Waste Recieved: 06/11/2010

Sample Description: non- halogenated solvents

Samples taken from Drum #:

WSC00179535
WSC00179536

Analysis Completed By:

JT

Date: 6/15/10

Time: 0950

PARAMETER	RESULT
Visual Test	
% Solid	≤5
% Liquid	≥95
Viscosity	LOW
Color	YELLOW
Phase Layering	NO
Compatiblity	NO CHANGE

PARAMETER	RESULT
pH (Paper)	7
pH (Meter)	
Quantitative Test	
Flash Point (F)	≤140@ 29.98"Hg
Specific Gravity	0.79
% Water	2.4
% Chlorine	3.7
BTU	11523

Tanker Truck and Loading Area Inspection Log

Date of Inspection:

Time of Inspection:

Name of Inspector:

Check Item		Comments
Tanker <ul style="list-style-type: none">• Integrity• Cracks		
Pumps <ul style="list-style-type: none">• Corrosion• Deterioration• Clogging• Leaks		
Filters <ul style="list-style-type: none">• General Condition• Low Supply		
Piping <ul style="list-style-type: none">• Leaks• Deterioration		
Grounding Clamps <ul style="list-style-type: none">• Loose• Damaged		
Containment Integrity <ul style="list-style-type: none">• Leaks• Cracks• Cleanliness		
Hoses <ul style="list-style-type: none">• Leaks• Cracks• Integrity		

3.1.7 Estimated Quantities and Characteristics of Wastes and Methods of Disposal

Badger Disposal shipped the following hazardous wastes off-site in 2004:

Waste Codes	Quantity in lbs.	Disposal Method
D001, F001, F002, F003, F004, F005	1,910,810	Fuel Blending
D002	1,125,000	Neutralization
F006	480,000	Chemical Treatment
D007, D008, D009	89,224	Chemical Treatment
D004, D005, D006	101,066	Chemical Treatment
D003, D001	25,550	Incineration
F002	243,840	Chemical Treatment
F007	28,000	Chemical Treatment

3.1.8 Person Responsible for Plant Construction and Operation

Henry Krier, President of Badger Disposal of WI., Inc. is the person responsible for plant construction and operation.

3.1.9 Air Discharge

Drums of hazardous waste that are received at Badger Disposal meet the applicable U.S. department of transportation regulations on packaging hazardous material for transportation. All containers are equipped with a cover and closure device that forms a continuous barrier over the container opening such that when the cover and closure devices are secured in the closed position there are no visible holes, gaps or other open spaces into the interior of the containers. The containers are covered at all times when they are in storage. Sampling of containers and removal of container contents occurs through the bore holes on the drum lid via insertion of a drum pump. Liquid wastes are received and shipped out by tanker truck in a closed-loop operation that does not result in emissions.

The air emissions from the proposed future operations (tank farm, lab pack building, etc.) will be controlled. Therefore, the emissions are not expected to increase significantly. An Air Pollution Control Construction Permit will be obtained for the proposed expansion.

3.1.10 Hazardous Waste Storage Procedures

Storage of hazardous waste occurs in the existing Badger Disposal warehouse/processing building and proposed lab pack building. These buildings are constructed to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil or surface water which could threaten human health or the environment. All containment areas are designed in accordance with the requirements of WAC NR 640 and NR 645. The warehouse/process building is constructed of 12-inch thick outside walls and 6-inch thick inside walls. Where there are exits to non-containment areas, dike walls are constructed at least 6-inches high and 10-inches thick.

Electrical systems and equipment at Badger Disposal are designed to minimize the possibility of a fire, explosion or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to the air, soil or surface water which could threaten human health or the environment. All electrical systems and equipment meet the applicable code requirements. All electrical systems and equipment are explosion proof in operational areas throughout the facility.

Badger Disposal has several preventative actions in place to minimize the possibility of failure and adverse impacts of failure. These actions include:

- Incoming materials are prescreened prior to acceptance as described in the Waste Analysis Plan. Accepted materials are then directed into an incoming material storage tank or into the container storage area.
- Employee training and immediate availability of personnel protection equipment on-site contribute to immediate response to possible failures.
- Loading and unloading areas are paved and diked in a manner to preclude runoff from entering surface or groundwater.
- Daily visual inspections and regular preventative maintenance of all equipment aid in the prevention of failures.

4.6 Contingency Plan NR 640.06(2)(f)

A copy of Badger Disposal's Contingency Plan is located in Appendix I.

4.7 Air Emission Control Equipment NR 640.06(2)(h)

Drums and totes of hazardous waste that are received at Badger Disposal meet the applicable U.S. Department of Transportation regulations on packaging hazardous material for transportation. Containers are inspected when they arrive to make certain they are sealed and to make certain they remain closed when in storage. These procedures are being followed in accordance with NR 633.09. All containers are equipped with a cover and closure device that forms a continuous barrier over the container opening such that when the cover and closure devices are secured in the closed position there are no visible holes, gaps or other open spaces into the interior of the containers. The containers are covered at all times when they are in storage. Sampling of containers and removal of container contents occurs through the bore holes on the drum lid via insertion of a drum pump. Liquid wastes are received and shipped out by tanker truck in a closed-loop operation that does not result in emissions. During truck loading and unloading operations, displaced vapor in the truck or storage tanks, respectively is vented back into whichever vessel is being emptied (i.e., either the truck or the tank). Transfer of hazardous waste in or out of a container using Container Level 2 controls will be conducted in a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive or other hazardous materials. Badger Disposal uses a submerged-fill pipe to load liquids into level 2 containers.

Whenever a hazardous waste is in a container using Container Level 2 controls, Badger Disposal will install all covers and closure devices for the container, and secure and maintain each closure device in the closed position except as follows:

1. Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container as follows:
 - a. In the case when the container is filled to the intended final level in one continuous operation, Badger Disposal will promptly secure the closure devices in the closed position and install all covers, as is applicable to the container, upon conclusion of the filling operation.
 - b. In the case when discrete quantities or batches of material intermittently are added to the container over a period of time, Badger Disposal will promptly secure the closure

devices in the closed position and install covers, as is applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first.

2. Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:
 - a. An empty container may be open to the atmosphere at any time.
 - b. In the case when discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, Badger Disposal will promptly secure the closure devices in the closed position and install covers, as is applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.
3. Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste such as times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container.. Following completion of the activity, Badger Disposal will promptly secure the closure device in the closed position or reinstall the cover, as is applicable to the container.
4. Spring loaded, pressure-vacuum relief valves, conservation vents or similar types of pressure relief devices which vent to the atmosphere will be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens will be established such that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by Badger Disposal based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices or other requirements for the safe handling of flammable, ignitable, explosive, reactive or hazardous materials.

Badger Disposal will inspect containers using Container Level 2 controls and their covers and closure devices as follows:

1. In the case when a hazardous waste already is in the container at the time Badger Disposal first accepts possession of the container and the container is not emptied within 24 hours after the container arrives at our facility, Badger Disposal will visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, Badger Disposal will repair the defect.
2. In the case when a container used for managing hazardous waste remains at the facility for a period of one year or more, Badger Disposal will visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months to check for visible cracks, holes, gaps or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, Badger Disposal will repair the defect.
3. When a defect is detected for the container, cover or closure devices, Badger Disposal will make first efforts at repair of the defect no later than 24 hours after detection, and repair will be completed as soon as possible but no later than 5 calendar days after detection. If repair of a defect cannot be completed within 5 calendar days, then the hazardous waste will be removed from the container and the container will not be used to manage hazardous waste until the defect is repaired.

4.8 Aisle Space Requirements NR 640.08

Badger Disposal maintains aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment and decontamination equipment to any area of the facility operations in an emergency. Specific aisle spacing maintained at the Badger Disposal facility includes three-foot aisle spacing between rows of drums and at least six-foot wide aisles at all exit routes to all doorways.

The three-foot aisle spacing of hazardous waste drums allows direct access to each and every drum in case of emergency. It is Badger Disposal's policy to keep aisle ways clear at all times. The three-foot aisle spacing provides ample room to wheel the dolly down an aisle and remove a drum from any given row of drums.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

16 JAN 2008

LR-8J

Kandylee Schmit, Compliance Officer
Badger Disposal of WI, Inc
5611 West Hemlock Street
Milwaukee, Wisconsin 53223

Re: Off-Site Rule Acceptability Determination
Badger Disposal of WI, Inc.
WID 988 580 056

Dear Ms. Schmit:

This letter is follow up to my letter of August 13, 2007 regarding the Badger Disposal of WI, Inc. request for Off-Site rule acceptability. In that letter, my staff inadvertently failed to correctly identify the type of waste your facility is permitted to handle. This letter is a correction of and a replacement for the letter of August 13, 2007.

Pursuant to 40 C.F.R. § 300.440 (b), my staff has determined that no relevant violations or releases currently exist at Badger Disposal of WI, Inc. Therefore, Badger Disposal of WI, Inc. located at 5611 West Hemlock Street is acceptable to receive wastes regulated by 40 CFR § 300.440 (the CERCLA Off-Site rule).

This acceptability determination is based on the assumption that only wastes which comply with the permits issued to Badger Disposal of WI, Inc. will be accepted. It is your responsibility to review any proposed waste streams for compliance with the permits for your facility.

Please note that this determination is based on the available information at the time of the review. Your status could be changed any time relevant information becomes available according to the procedures in 40 C.F.R. § 300.440 (d). Generators who need to use a currently acceptable facility should verify the current acceptability of any facilities they wish to use with the appropriate Regional Off-Site Rule Contact(s).

If you have questions, please contact Mr. Damico at (312) 353-8207, United States Environmental Protection Agency, Region 5 – LR-8J, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

Sincerely,

Willie H. Harris, P.E.
Chief, RCRA Branch
Land & Chemicals Division

cc: Sandra J. Miller, Wisconsin Department of Natural Resources

DE-9J/WWD:/1/10/2008/filename:BadgerDisposal.WI.01.ltr

U.S. Postal Service CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

LR-33

OFFICIAL USE

Postage \$ 47

Certified Fee 265

Return Receipt Fee
(Endorsement Required) 235

Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees \$ 527

Postmark
Here

Sent To

Kandylee Schmit

Street, Apt. No.,
or PO Box No.

5611 W. Hemlock Street

City, State, ZIP+4

Milwaukee, WI. 53223

PS Form 3800, January 2001

See Reverse for Instructions

COMPLETE THIS SECTION ON DELIVERY

Received by (Please Print Clearly)

Signature

1/6/05

B. Date of Delivery

1-2-08

Delivery address different from item 1? ☐ Agent
YES, enter delivery address below: ☐ Yes
☐ No

Voice Type

Certified Mail

Registered

Insured Mail

Restricted Delivery? (Extra Fee)

☐ Yes

☐ Express Mail

☐ Return Receipt for Merchandise

☐ C.O.D.

1559 2432

102595-01-M-1424



Land and Chemicals Division

Type of Document: ☒ Initial Acceptability Determination
☐ Initial Unacceptability Determination
☐ Initial 60-day Notice of Unacceptability
☐ Initial Notice of Unacceptability with other than 60-day effective period
☐ Extension of Unacceptability Deadline
☐ Determination of Sufficiency of Information
☐ Return to Acceptability

Facility Name : Badger Disposal of Wisconsin, Inc.

Facility Location: 5611 West Hemlock Street

City: Milwaukee State Wisconsin

Off-Site ID# WID988580056

Assigned Staff William Damico Phone: 3-8207

Name	Signature	Date
Author	<i>William H. Damico</i>	January 10, 2008
Regional Counsel	N/A	
Section Chief	<i>MS</i>	1/10/08
Administrative Asst.		
Branch APA		
Branch Chief		
Division Director	N/A	

Directions/Request for Clerical Support:

After the Branch Chief/Division Director signs this sheet and original letter:

1. Date stamp the cover letter;
2. Make one copy of the contents of this folder for the assigned staff;
3. Make any additional copies for cc's or bcc's;
4. Mail the original regular mail and distribute office copies and cc's and bcc's.

Note: Per Region 5 Delegations Manual entry 14-43 the following are concurrence and signatory authorities:

1. Branch Chief signatory, no concurrence - Initial determination of acceptability
2. Branch Chief signatory, with ORC concurrence - Initial determinations of unacceptability (60-day)
3. Division Director, with ORC concurrence - Initial determinations with other than 60-day deadline and Sufficiency of information
4. Division Director, no concurrence - Extensions of Deadlines



October 31, 2007

Mr. Michael Beedle
Environmental Scientist
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard, DE-9J
Chicago, Illinois 60604

RE: Notice of Violation resulting from a Compliance Evaluation Inspection
U.S. EPA I.D. No: WID988580056

Dear Mr. Beedle,

This letter is to notify you that in order to clarify our facility discrepancy procedure, Badger Disposal of WI., Inc. has changed the shipment screening procedure from our FPOR Waste Analysis Plan, Section 5 SHIPMENT SCREENING. The wording has been changed to read:

5.1 Containerized Loads

If, after analysis, results are not representative of the manifest description, the General Manager is informed and the proper steps are taken to rectify the discrepancy. If the generator has an existing profile that matches the results, the material is received under the alternate profile. The generator is notified, a discrepancy is indicated on the manifest, a new drum label is placed on the drum/s and the drum/s are received under the alternate profile. If a profile that matches the analytical results does not exist, the generator is contacted to complete a new profile and the same discrepancy procedure is followed.

5.2 Bulk Liquid Loads & 5.3 Bulk Solid Loads

If, after analysis, results are not representative of the manifest description, the General Manager is informed and the proper steps are taken to rectify the discrepancy. If the generator has an existing profile that matches the results, the material is received under the alternate profile. The generator is notified, a discrepancy is indicated on the manifest, and the load is received under the alternate profile. If a profile that matches the analytical results does not exist, the generator is contacted to complete a new profile and the same discrepancy procedure is followed.

Included for your review are the Waste Analysis Plan pages with the changes. These changes are being incorporated into a Class 1 Modification to the WIDNR for a soon to be completed warehouse addition.

If you have any questions regarding these Waste Analysis Plan changes please contact me.

Sincerely,
Badger Disposal of WI., Inc.



Henry J. Krier

cc: Sandy Miller, WIDNR

Section 5
SHIPMENT SCREENING

To comply with NR 630.12(4), all inbound waste materials shall be screened to ensure the validity of the information supplied on the manifest.

The first step in the screening process shall occur at the time of arrival of the waste material at the facility. The transporter of the materials shall be instructed to bring the manifest and any other paperwork associated with the load required by management or current regulations to the plant office. The manifest shall be logged and assigned a tracking number by the person in charge of manifest control. The manifest wording shall be validated to ensure that it meets regulatory requirements.

5.1 Containerized Loads

After the manifest has been validated and a tracking number assigned, the driver shall receive two copies of the manifest to take to the acting area supervisor. After receipt of the manifest(s), the supervisor shall instruct the driver where to position his box van or truck. Once positioned, the supervisor and/or one of the crew shall off-load the containers, check to ensure that all labels are consistent with the manifests and verify the number of drums. Any damaged or incomplete label will be immediately rectified prior to final acceptance. Containers from each generators waste stream(s) shall also be randomly chosen for analysis and inspection. All incoming waste streams are sampled. A minimum of ten percent of the containers of each generator's waste stream(s) shall be sampled for compatibility, BTU's per pound, chloride, water, specific gravity and pH in an on-site laboratory. If the containers are accepted through this initial qualification step, they shall then be moved to the container storage area and shall be staged according to waste stream. Once the containers are off-loaded from the truck or box van, the driver shall return to the plant office to receive a signed copy of the manifest. A copy of the manifest shall also be sent to the generator, as required. A minimum of 10 percent of the containers of each generator's waste stream shipment shall be sampled, and the same analyses shall be performed as for bulk loads. In addition, a comparison shall be made against the pre-qualification and/or historical receipts of the material to ensure that there are no significant discrepancies between the load and what is expected. If the material meets acceptable criteria through inspection and/or analysis which consists of compatibility, BTU's per pound, %chlorine, water, pH and specific gravity results that

match the Waste Profile sheet provided by the generator, the load shall be accepted and the material shall be segregated according to the ultimate method of processing.

If, after analysis, results are not representative of the manifest description, the Operations Manager is informed and the proper steps are taken to rectify the discrepancy. If the generator has an existing profile that matches the results, the material is received under the alternate profile. The generator is notified, a discrepancy is indicated on the manifest, a new drum label is placed on the drum/s and the drum/s are received under the alternate profile. If a profile that matches the analytical results does not exist, the generator is contacted to complete a new profile and the same discrepancy procedure is followed.

5.2 Bulk Liquid Loads

This process is similar to that of the containerized loads. A copy of the manifest and the driver log-in are brought to the plant office. A sample of the fuel blendable material is analyzed for BTU content, chloride, water, specific gravity, pH and any other analysis as deemed necessary by management. A comparison is made between the waste description on the manifest and the analytical results obtained to ensure that they are representative. In addition, a comparison may be made against the prequalification and/or historical receipts of the material to assure that there are no significant discrepancies between the load and what is expected. If acceptable, the material is assigned a spot to be off-loaded into a tank. When the material has been successfully off-loaded, the driver returns to the laboratory to pick up his log-in sheet, and takes it back to the plant office to receive his signed copy of the manifest. A copy of the manifest is also sent to the generator as required.

If, after analysis, results are not representative of the manifest description, the General Manager is informed and the proper steps are taken to rectify the discrepancy. If the generator has an existing profile that matches the results, the material is received under the alternate profile. The generator is notified, a discrepancy is indicated on the manifest and the load is received under the alternate profile. If a profile that matches the analytical results does not exist, the generator is contacted to complete a new profile and the same discrepancy procedure is followed.

5.3 Bulk Solid Loads

A copy of the manifest and driver log-in are brought to the plant office. A composite sample of the fuel blendable material is analyzed for BTU content, chloride, water, specific gravity, pH and any other analysis as deemed necessary by management. A comparison is made between the waste description on the manifest and the analytical results obtained to ensure that they are representative. In addition, a comparison may be made against the prequalification and/or historical receipts of the material to assure that there are no significant discrepancies between the load and what is expected. If acceptable, the material will be staged or off-loaded. When the material has been accepted or off-loaded, the driver returns to the office to pick up his log-in sheet, and takes it back to the plant office to receive his signed copy of the manifest. A copy of the manifest is also sent to the generator as required.

If, after analysis, results are not representative of the manifest description, the General Manager is informed and the proper steps are taken to rectify the discrepancy. If the generator has an existing profile that matches the results, the material is received under the alternate profile. The generator is notified, a discrepancy is indicated on the manifest and the load is received under the alternate profile. If a profile that matches the analytical results does not exist, the generator is contacted to complete a new profile and the same discrepancy procedure is followed.

5.4 Labpack Loads

After the manifest(s) has been validated and a tracking number assigned, the driver shall receive two copies of the manifest to take to the acting area Supervisor. After receipt of the manifest(s), the Supervisor shall instruct the driver where to position his box van or truck. Once positioned, the Supervisor and/or one of the crew shall off-load the containers, check to ensure that all labels are consistent with the manifest(s) and verify the number of containers. If the containers are accepted through this initial qualification step, they shall then be moved to the container storage area and shall be staged in the proper containment areas. Once the containers are off-loaded from the box van or truck, the driver shall return to the plant office to receive a signed copy of the manifest. A copy of the manifest shall also be sent to the generator, as required.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

DE-9J

13 AUG 2007

Kandylee Schmit, Compliance Officer
Badger Disposal of WI, Inc.
5611 West Hemlock Street
Milwaukee, Wisconsin 53223

Re: Off-Site Rule Acceptability Determination
Badger Disposal of WI, Inc.
WID 988 580 056

Dear Ms. Schmit:

This letter is in reply to your letter of July 11, 2007 to Mr. William Damico regarding the Badger Disposal of WI, Inc. request for Off-Site rule acceptability.

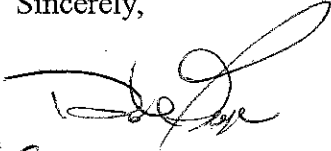
Pursuant to 40 C.F.R. § 300.440 (b), my staff has determined that no relevant violations or releases currently exist at Badger Disposal of WI, Inc. Therefore, Badger Disposal of WI, Inc. located at 5611 West Hemlock Street is acceptable to receive wastes regulated by 40 CFR § 300.440 (the CERCLA Off-Site rule).

The acceptability determination is based on the assumption that only non-hazardous waste for which Badger Disposal of WI, Inc. is properly permitted, will be shipped to this facility. It is your responsibility to review any proposed waste streams for compliance with the permits for your facility.

Please note that this determination is based on the available information at the time of the review. Your status could be changed any time relevant information becomes available according to the procedures in 40 C.F.R. § 300.440 (d). Generators who need to use a currently acceptable facility should verify the current acceptability of any facilities they wish to use with the appropriate Regional Off-Site Rule Coordinator(s).

If you have questions, please contact Mr. Damico at (312) 353-8207, United States Environmental Protection Agency, Region 5 – DE-9J, 77 W. Jackson Boulevard, Chicago, Illinois 60604.

Sincerely,

A handwritten signature in black ink, appearing to read 'Willie H. Harris', with a large, stylized loop at the end.

for

Willie H. Harris, P.E.

Chief

RCRA Branch

Land & Chemicals Division

cc: Sandra J. Miller, Wisconsin Department of Natural Resources



Land and Chemicals Division

Type of Document: ☒ Initial Acceptability Determination
☐ Initial Unacceptability Determination
☐ Initial 60-day Notice of Unacceptability
☐ Initial Notice of Unacceptability with other than 60-day effective period
☐ Extension of Unacceptability Deadline
☐ Determination of Sufficiency of Information
☐ Return to Acceptability

Facility Name : Badger Disposal of WI, Inc.
Facility Location: 5611 West Hemlock Street
City: Milwaukee State: Wisconsin

Off-Site ID# WID 988 580 056

Assigned Staff William Damico Phone: 3-8207

Name	Signature	Date
Author	<i>William M. Damico</i>	July 27, 2007
Regional Counsel	not needed ¹	
Section Chief	<i>Laura M. Jones</i>	7/30/07
Administrative Asst.		
Branch Chief	<i>De Jager for</i>	8/8/07
Division Director	not needed ¹	

Directions/Request for Clerical Support:

After the Branch Chief/Division Director signs this sheet and original letter:

1. Date stamp the cover letter;
2. Make three copies of the contents of this folder:
One copy for the assigned staff;
One copy for the branch file; and
One copy for the official file.
3. Make any additional copies for cc's or bcc's.
4. Mail the original regular mail and distribute office copies and cc's and bcc's.

*bcc, off site rule file
Branch section*

Note: Per Region 5 Delegations Manual entry 14-43 the following are concurrence and signatory authorities:

1. Branch Chief signatory, no concurrence - Initial determination of acceptability
2. Branch Chief signatory, with ORC concurrence - Initial determinations of unacceptability (60-day)
3. Division Director, with ORC concurrence - Initial determinations with other than 60-day deadline and Sufficiency of information
4. Division Director, no concurrence - Extensions of Deadlines



Copy
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

241384 000 *C-2*
HWIAPP
RECEIVED

AUG 16 2007

**SANDY MILLER
DNR WASTE**

REPLY TO THE ATTENTION OF:

August 2, 2007

D-8J

RE: Badger Disposal of Wisconsin, Inc.
Milwaukee, Wisconsin
WID 988 580 056

Dear Sir/Madam:

On August 1, 2007, the United States Environmental Protection Agency (U.S. EPA), Region 5, issued the Federal portion of a Resource Conservation and Recovery Act (RCRA) Permit for the above-referenced facility. When both this portion of the permit and the State of Wisconsin's portion of the license become effective, Badger Disposal of Wisconsin, Inc. will have an effective RCRA permit.

This letter transmits the enclosed Response to Comments generated as a result of the public notice for the draft permit. This Response to Comments was prepared by the U.S. EPA and sent to interested parties.

I have made the final decision to issue the Federal portion of the RCRA permit for this facility located in Milwaukee, Wisconsin. Unless review is requested under Title 40 of the Code of Federal Regulations (40 CFR) §124.19, the Federal portion of the RCRA permit becomes effective on August 1, 2007.

Appeal to the Federal RCRA permit is described in 40 CFR §124.19. The administrative appeal procedures must be completed prior to any action seeking judicial review. All original documents are to be signed in blue ink with five (5) copies marked as such. The petition for review must be received by U.S. EPA in Washington D.C., via U.S. Postal Service at the address indicated below within 33 days after service of notice of the final decision.

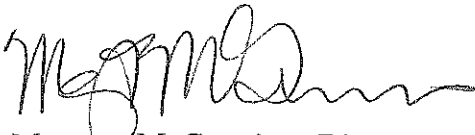
United States Environmental Protection Agency
Clerk of the Board, Environmental Appeal Board (MC-1103B)
Ariel Rio Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

A copy of the petition should also be sent to:

RCRA Branch (DW-8J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

On behalf of the U.S. EPA, I wish to thank you for your interest in the final permit conditions for Badger Disposal of Wisconsin, Inc. facility in Milwaukee, Wisconsin.

Sincerely,

A handwritten signature in dark ink, appearing to read 'M. Guerriero', with a stylized, flowing script.

Margaret M. Guerriero, Director
Land and Chemicals Division

Enclosure

**RESPONSE TO COMMENTS
REGARDING
THE FEDERAL RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) PERMIT
TO BE ISSUED TO BADGER DISPOSAL OF WISCONSIN, INC.
MILWAUKEE, WISCONSIN 53223
WID 988 580 056**

INTRODUCTION

This response is issued pursuant to Title 40 of the Code of Federal Regulations (40 CFR) Section 124.17, which requires that any changes of draft permit conditions be specified along with the reason for the change; that all significant comments be described and responded to; and that any documents cited in the response be included in the administrative record. Comments were requested regarding the United States Environmental Protection Agency's (U.S. EPA) tentative determination to reissue a RCRA permit to the Permittee.

The 45-day public comment period commenced on March 15, 2007, with a public notice in The Wisconsin State Journal and the Milwaukee Journal Sentinel, and a radio announcement on a local radio station, WFMR. The termination date of this comment period was May 7, 2007.

Additionally, pertinent information and materials were available at the Milwaukee Central Public Library, located at 814 West Wisconsin Avenue, Milwaukee, Wisconsin.

Comments were received from Donald P. Gallo on April 11, 2007, an attorney representing EOG Environmental (EOG).

RESPONSE TO COMMENTS

Comments presented by EOG include alleged history of violations at the Badger facility. However, U.S. EPA concurs with Wisconsin Department of Natural Resources' preliminary determination to issue a final RCRA permit to the Badger Disposal of Wisconsin Inc. with modifications to the draft permit.

Since EOG made no specific comments to the federal draft permit, no response to comments was prepared.

CHANGES TO THE DRAFT PERMIT

No change to the federal draft permit conditions was made, since no comments to the draft permit were received. Due to recent reorganization at Region 5, U.S. EPA, the following changes have been made.

Waste, Pesticides and Toxics Division was changed to: Land and Chemicals Division, and Program Management Branch was changed to: RCRA Branch.

DETERMINATION

Based on a full review of all relevant data provided to the U.S. EPA, the U.S. EPA has determined that the final permit contains such terms and conditions necessary to protect human health and the environment.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

August 1, 2007

REPLY TO THE ATTENTION OF.

D-8J

CERTIFIED MAIL: 7001 0320 0006 1558 4146
RETURN RECEIPT REQUESTED

Ms. Kandylee Schmit
Compliance Officer
Badger Disposal of Wisconsin, Inc.
5611 W. Hemlock Street
Milwaukee, Wisconsin 53223

RE: Final Federal RCRA Permit
Badger Disposal of Wisconsin, Inc.
WID 988 580 056

Dear Ms. Schmit:

Enclosed is a copy of the Federal portion of a Resource Conservation and Recovery Act (RCRA) Hazardous Waste permit for the above-referenced facility. The Hazardous Waste permit contains both Federal permit conditions (contained herein) and State license conditions, which were issued separately by the State of Wisconsin RCRA program authorized under Title 40 of the Code of Federal Regulations (40 CFR) Part 271. When both this portion and the State license are effective, Badger Disposal of Wisconsin, Inc. will have an effective RCRA Hazardous Waste permit. Any hazardous waste activity not included in the RCRA permit is prohibited when such activity requires a RCRA Hazardous Waste permit.

Eligibility to appeal the Federal permit is discussed further in 40 CFR §124.19. All original documents are to be signed in blue ink with five (5) copies marked as such. The petition for review must be received by U.S. EPA in Washington, D.C., via U.S. Postal Service at the address indicated below within 30 days after service of notice of the final permit decision.

United States Environmental Protection Agency
Clerk of the Board, Environmental Appeals Board (MC-1103B)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460-0001

Submissions can also be made by hand or courier, Federal Express, UPS, or a non-U.S. Postal Service at the following address:

United States Environmental Protection Agency
Environmental Appeals Board
Colorado Building
1341 G Street, NW
Suite 600
Washington, D.C. 20005

A copy of the petition should also be sent to:

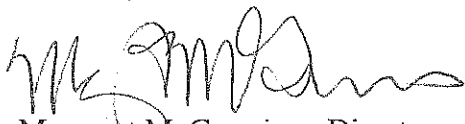
RCRA Branch (DW-8J)
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

The procedures for filing an appeal are found in 40 CFR § 124.19. The administrative appeal procedures must be completed prior to any action seeking judicial review.

This Federal permit is effective August 1, 2007, valid until August 1, 2017, unless the Federal permit is revoked and reissued, or terminated pursuant to 40 CFR § 270.41 and § 270.43. Failure to comply with any conditions of the Federal permit may result in civil and/or criminal penalties.

If you have any questions concerning this permit, please contact Wen C. Huang of my staff, at (312) 886-6191.

Sincerely,

A handwritten signature in black ink, appearing to read 'Margaret M. Guerriero', written over a horizontal line.

Margaret M. Guerriero, Director
Land and Chemicals Division

Enclosure:

cc: Ms. Sandy Miller, Wisconsin DNR

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) PERMIT

Facility Name and Location: Badger Disposal of Wisconsin, Inc.
5611 W. Hemlock Street
Milwaukee, Wisconsin 53223

Owner(s): Badger Disposal of Wisconsin, Inc.
5611 W. Hemlock Street
Milwaukee, Wisconsin 53223

Operator(s): Badger Disposal of Wisconsin, Inc.
5611 W. Hemlock Street
Milwaukee, Wisconsin 53223

U.S. EPA Identification Number: WID 988 580 056

Effective Date: August 1, 2007

Expiration Date: August 1, 2017

Authorized Activities:

The United States Environmental Protection Agency (U.S. EPA) hereby issues a Resource Conservation and Recovery Act (RCRA) permit (hereinafter referred to as the permit) to the Badger Disposal of Wisconsin, Inc. (hereinafter referred to as the "Permittee" or addressed in the second person as "you") in connection with the hazardous waste storage activities at 5611 West Hemlock facility in Milwaukee, Wisconsin.

This permit is issued under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and the Hazardous and Solid Waste Amendments (HSWA) of 1984 (42 USC § 6901 *et seq.*) (collectively referred to as RCRA) and U.S. EPA's regulations promulgated there under (codified, and to be codified, in Title 40 of the Code of Federal Regulations (40 CFR)).

Specifically, this permit addresses: (1) Federal RCRA regulations which have not yet been authorized to the State, and (2) air emissions from the storage of hazardous waste in containers in accordance with 40 CFR § 264.1080 *et seq.* (also referred to as "Subpart CC").

The RCRA permit is comprised of both this permit, which contains the effective Federal RCRA permit conditions, and the effective State RCRA license conditions issued by the State of Wisconsin's RCRA program authorized under 40 CFR Part 271 (hereinafter called the "State-issued portion of the RCRA permit"). Any hazardous waste activity not covered by the permit is prohibited when such activity requires a RCRA permit.

Permit Approval:

On January 31, 1986, the State of Wisconsin received final authorization pursuant to Section 3006 of RCRA, 42 USC § 6926, and 40 CFR Part 271, to administer the pre-HSWA RCRA hazardous waste program. The State of Wisconsin has also received final authorization to administer certain additional RCRA requirements on several occasions since then. However, because the U.S. EPA has not yet authorized the State of Wisconsin to administer certain regulations, including the air emission standards for tanks and containers handling hazardous wastes (see 40 CFR § 264.1080 *et seq.*, also known as "Subpart CC") and recent changes to other sections of applicable regulations, the U.S. EPA Region 5 is issuing the RCRA permit requirements for operations at the Permittee's facility which fall under these regulations.

You must comply with all terms and conditions contained in this permit. This permit consists of all the conditions contained herein, the documents listed in all documents attached hereto and all documents cross-referenced in these documents, approved submittals (including plans, schedules and other documents), and the applicable regulations contained in 40 CFR Parts 124, 260, 261, 262, 264, 268, 270, and applicable provisions of RCRA (hereinafter referred to as the permit).

This permit is based on the assumptions that: (1) the information submitted in the Permittee's RCRA updated permit application dated September 14, 2006, and all other modifications to that application (hereinafter referred to as the "Application") are accurate, and (2) the facility is configured, operated and maintained as specified in the permit, and as described in the Application.

Any inaccuracies in the submitted information may be grounds for the U.S. EPA to terminate, revoke and reissue, or modify this permit in accordance with 40 CFR §§ 270.41, 270.42 and 270.43; and for enforcement action. You must inform the U.S. EPA of any deviation from, or changes in, the information in the Application that might affect your ability to comply with the applicable regulations or conditions of this permit.

Opportunity to Appeal:

Petitions for review must be submitted within 30 days after the U.S. EPA serves notice of the final permit decision. Any person who filed comments on the draft permit or participated in the public hearing may petition the Environmental Appeals Board to review any condition of the permit decision. Any person who failed to file comments or failed to participate in the public hearing on the draft permit may file a petition for review only to the extent of the changes from the draft to the final permit decision. The procedures for permit appeals are found in 40 CFR § 124.19.

Effective Date:

This permit is effective as of August 1, 2007, and will remain in effect until August 1, 2017, unless revoked and reissued under 40 CFR § 270.41, terminated under 40 CFR § 270.43, or continued in accordance with 40 CFR § 270.51(a).

By:



Margaret M. Guerriero, Director
Land and Chemicals Division

Date August 1, 2007

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SECTION I - STANDARD PERMIT CONDITIONS

I.A EFFECT OF PERMIT

You are hereby allowed to manage hazardous waste in accordance with this permit. Under this permit, the storage and treatment of RCRA hazardous waste must comply with all air emission standards and all other terms and conditions in this permit. (Other aspects of the storage and treatment of RCRA hazardous wastes in containers, tanks, miscellaneous units, etc., are subject to the conditions in the State-issued portion of the RCRA permit.) Any hazardous waste activity not covered by this permit is prohibited when such activity requires a RCRA permit.

Subject to 40 CFR § 270.4, compliance with the RCRA permit during its term constitutes compliance for purposes of enforcement with Subtitle C of RCRA except for those requirements not included in the permit which: (1) become effective by statute; (2) are promulgated under part 40 CFR Part 268 restricting the placement of hazardous waste in or on the land; (3) are promulgated under 40 CFR Part 264 regarding leak detection systems; or (4) promulgated under subparts AA, BB, or CC of 40 CFR Part 265 limiting air emissions. (40 CFR § 270.4)

This permit does not: (1) convey any property rights or any exclusive privilege; (2) authorize any injury to persons or property, or invasion of other private rights; or (3) authorize any infringement of state or local law or regulations. Compliance with the terms of this permit does not constitute a defense to any order issued, or any action brought, under: (1) Sections 3008(a), 3008(h), 3013, or 7003 of RCRA; (2) Sections 104, 106(a), or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 USC §§ 9601 *et seq.* (commonly known as CERCLA); or (3) any other law protecting public health or the environment from any imminent and substantial endangerment to human health, welfare, or the environment. (40 CFR §§ 270.4 and 270.30(g))

I.B PERMIT ACTIONS

I.B.1 Permit Review, Modification, Revocation and Reissuance, and Termination

The U.S. EPA may review and modify, revoke and reissue, or terminate this permit for cause, as specified in 40 CFR § 270.41, § 270.42, and § 270.43. The U.S. EPA may also review and modify this permit, consistent with 40 CFR § 270.41, to include any terms and conditions it determines are necessary to protect human health and the environment under Section 3005(c)(3) of RCRA. The filing of a request for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated

noncompliance on your part will not stay the applicability or enforceability of any permit condition.

You must not perform any construction associated with a Class 3 permit modification request until such modification request is granted and the modification becomes effective. You may perform construction associated with a Class 2 permit modification request beginning 60 days after submission of the request unless the Director establishes a later date. (40 CFR § 270.42(b)(8))

I.B.2 Permit Renewal

This permit may be renewed as specified in 40 CFR § 270.30(b) and Condition I.E.2 of this permit. In reviewing any application for a permit renewal, the U.S. EPA will consider improvements in the state of control and measurement technology, and changes in applicable regulations. (40 CFR § 270.30(b) and RCRA Section 3005(c)(3))

I.C SEVERABILITY

This permit's provisions are severable; if any permit provision, or the application of any permit provision to any circumstance, is held invalid, such provision's application to other circumstances and the remainder of this permit will not be affected. Invalidity of any statutory or regulatory provision on which any condition of this permit is based does not affect the validity of any other statutory or regulatory basis for that condition. (40 CFR § 124.16(a))

I.D DEFINITIONS

The terms used in this permit will have the same meaning as in 40 CFR Parts 124, 260 through 266, 268, and 270, unless this permit specifically provides otherwise. Where neither the regulations nor the permit define a term, the term's definition will be the standard dictionary definition or its generally accepted scientific or industrial meaning.

I.E DUTIES AND REQUIREMENTS

1.E.1 Duty to Comply

You must comply with all conditions of this permit, except to the extent and for the duration for which an emergency permit authorizes such noncompliance (see 40 CFR § 270.61). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of RCRA and will be grounds for: enforcement action; permit termination, revocation and reissuance; or modification; or denial of a permit renewal application. (40 CFR § 270.30(a))

I.E.2 Duty to Reapply

If you wish to continue the permit regulated activities after the expiration date, you must apply for and obtain a new permit. You must submit a complete application for a new permit at least 180 days before the permit expiration date, unless the Director grants permission for a later submittal date. The Director will not grant permission to submit the complete application for a new permit later than the permit's expiration date. (40 CFR § 270.10(h) and § 270.30(b))

I.E.3 Permit Expiration

Unless revoked or terminated, this permit and all conditions herein will be effective for a fixed term not to exceed 10 years from this permit's effective date. This permit and all conditions herein will remain in effect beyond the permit's expiration date if you have submitted a timely, complete application (40 CFR § 270.10 and §§ 270.13 through 270.29), and, through no fault of your own, the Director has not made a final determination regarding permit reissuance. (40 CFR §§ 270.50, and 270.51)

I.E.4 Need to Halt or Reduce Activity Not a Defense

In an enforcement action, you are not entitled to a defense that it would have been necessary to halt or reduce the permitted activity to maintain compliance with this permit. (40 CFR § 270.30(c))

I.E.5 Duty to Mitigate

In the event of noncompliance with this permit, you must take all reasonable steps to minimize releases to the environment resulting from the noncompliance and must implement all reasonable measures to prevent significant adverse impacts on human health or the environment. (40 CFR § 270.30(d))

I.E.6 Proper Operation and Maintenance

You must always properly operate and maintain all facilities and treatment and control systems (and related appurtenances) that you install or use to comply with this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance/quality control procedures. This provision requires you to operate back-up or auxiliary facilities or similar systems only when necessary to comply with this permit. (40 CFR § 270.30(e))

I.E.7 Duty to Provide Information

You must provide the Director, within a reasonable time, any relevant information that the Director requests to determine whether there is cause to modify, revoke and reissue, or terminate this permit, or to determine permit compliance. You must also provide the Director, upon request, with copies of any records this permit requires. The information you must maintain under this permit is not subject to the Paperwork Reduction Act of 1980, 44 USC §§ 3501 *et seq.* (40 CFR §§ 264.74(a) and 270.30(h))

I.E.8 Inspection and Entry

Upon the presentation of credentials and other legally required documents, you must allow the Director or an authorized representative to:

I.E.8.a Enter at reasonable times upon your premises where a regulated activity is located or conducted, or where records must be kept under the conditions of this permit (40 CFR § 270.30(i));

I.E.8.b Have access to and copy, at reasonable times, any records that you must keep under the conditions of this permit;

I.E.8.c Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

I.E.8.d Sample or monitor any substances at any location at reasonable times, to ensure permit compliance or as RCRA otherwise authorizes.

Notwithstanding any provision of this permit, U.S. EPA retains the inspection and access authority which it has under RCRA and other applicable laws.

I.E.9 Monitoring and Records

I.E.9.a Samples and measurements taken for monitoring purposes must be representative of the monitored activity. The methods used to obtain a representative sample of the wastes, contaminated media, treatment residue, or other waste to be analyzed must be the appropriate methods from Appendix I of 40 CFR Part 261, or the methods specified in the State-approved waste analysis plan, or an equivalent method approved by the Director. Laboratory methods must be those specified in *Test Methods for Evaluating Solid Waste: Physical/Chemical Methods* (SW-846, latest edition), *Methods for Chemical Analysis of Water and*

Wastes (EPA 600/4-79-020), or an equivalent method, as specified in the referenced waste analysis plan. (40 CFR § 270.30(j)(1))

I.E.9.b You must retain, at the facility, all records as specified in 40 CFR § 264.74.

I.E.9.c You must submit all monitoring results at the intervals specified in this permit.

I.E.9.d You must retain all reports, records, or other documents, required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the reports, records, or other documents, unless a different period is specified in this permit. The 3-year period may be extended by request of the Director at any time and is automatically extended during the course of any unresolved enforcement action regarding this facility. (40 CFR §§ 270.30(j) and 270.31))

I.E.10 Reporting Planned Changes

You must notify the Director promptly of any planned physical alterations or additions to the permitted facility. (40 CFR § 270.30(l)(1))

I.E.11 Reporting Anticipated Noncompliance

You must notify the Director, in advance, of any planned changes in the permitted facility or activity that may result in permit noncompliance. Advance notice will not constitute a defense for any noncompliance. (40 CFR § 270.30(l)(2))

I.E.12 Certification of Construction

You must not operate any RCRA air emission control devices completed after the effective date of this permit until you have submitted to the Director, by certified mail or hand-delivery, a letter signed both by your authorized representative and by a registered professional engineer. That letter must state that the portions of the facility covered by this permit (including all air emission control devices required by this permit) have been constructed in compliance with the applicable conditions of this permit. In addition, you must not operate the permitted control devices until either:

I.E.12a The Director or his/her representative has inspected those portions of the facility and finds them in compliance with the conditions of the permit; or

I.E.12b The Director waives the inspection.

I.E.13 Transfer of Permits

This permit is not transferable to any person, except after notice to the Director. Under 40 CFR § 270.40, the Director may require permit modification, or revocation and reissuance to change the Permittee's name and incorporate other RCRA requirements. Before transferring ownership or operation of the facility during its operating life, you must notify the new owner or operator in writing of the requirements of this permit and the requirements of 40 CFR Parts 264, 268, and 270. (40 CFR §§ 264.12(c), 270.30(l)(3), and 270.40(a))

I.E.14 Twenty-Four Hour Reporting

I.E.14.a You must report to the Director any noncompliance with this permit that may endanger human health or the environment. Any such information must be promptly reported orally, but no later than 24 hours after you become aware of the noncompliances.

I.E.14.b The report must include the following information (40 CFR §§ 270.30(l)(6) and 270.33): (1) release of any hazardous waste that may endanger public drinking water supplies; (2) release or discharge of hazardous waste; or (3) fire or explosion from the hazardous waste management facility, that could threaten the environment or human health outside the facility. You must include the following information:

- (1) Name, title and telephone number of the person making the report;
- (2) Name, address and telephone number of the facility;
- (3) Name, address and telephone number of the owner and/or operator;
- (4) Date, time and type of incident;
- (5) Location and cause of incident;
- (6) Identification and quantity of material(s) involved;
- (7) Extent of injuries, if any;
- (8) Assessment of actual or potential hazards to the environment and human health outside the facility, where applicable;
- (9) Description of any emergency action taken to minimize the threat to human health and the environment; and
- (10) Estimated quantity and disposition of recovered material that resulted from the incident.

I.E.14.c In addition to the oral notification required under Conditions I.E.14.a and I.E.14.b of this permit, a written report must also be provided within 5 calendar days after you become aware of the circumstances. The written report must include, but is not limited to, the following:

- (1) Name, address and telephone number of the person reporting;
- (2) Incident description (noncompliance and/or release or discharge of hazardous waste), including cause, location, extent of injuries, if any, and an assessment of actual or potential hazards to the environment and human health outside the facility, where applicable;
- (3) Period(s) in which the incident (noncompliance and/or release or discharge of hazardous waste) occurred, including exact dates and times;
- (4) Whether the incident's results continue to threaten human health and the environment, which will depend on whether the noncompliance has been corrected and/or the release or discharge of hazardous waste has been adequately cleaned up; and
- (5) If the noncompliance has not been corrected, the anticipated period for which it is expected to continue, and the steps taken or planned to reduce, eliminate, and prevent the recurrence of the noncompliance.

The Director may waive the requirement that written notice be provided within 5 calendar days; however, you will then be required to submit a written report within 15 calendar days of the day on which you must provide oral notice, in accordance with Conditions I.E.14.a and I.E.14.b of this permit. (40 CFR § 270.30(1)(6))

I.E.15 Other Noncompliance

You must report all instances of noncompliance not reported under Condition I.E.14 of this permit, when any other permit required reports are submitted. The reports must contain the information listed in Condition I.E.14. (40 CFR § 270.30(1)(10))

I.E.16 Other Information

I.E.16.a Whenever you become aware that you failed to submit or otherwise omitted any relevant facts in the permit application or other submittal, or submitted incorrect information in the permit application or other submittal, you must promptly notify the Director of any incorrect information or previously omitted information, submit the correct facts or information, and explain in writing the circumstances of the incomplete or inaccurate submittal. (40 CFR § 270.30(1)(11))

I.E.16.b All other requirements contained in 40 CFR § 270.30 not specifically described in this permit are incorporated into this permit and you must comply with all those requirements.

I.F SIGNATORY REQUIREMENT

You must sign and certify all applications, reports, or information this permit requires, or which are otherwise submitted to the Director, in accordance with 40 CFR § 270.11.
(40 CFR § 270.30(k))

I.G REPORTS, NOTIFICATIONS AND SUBMITTALS TO THE DIRECTOR

Except as otherwise specified in this permit, all reports, notifications, or other submittals that this permit requires to be submitted to the Director should be sent by certified mail or hand-delivered to the U.S. Environmental Protection Agency, Region 5, at the following address:

RCRA Branch, DW-8J
Land and Chemicals Division
U.S. EPA Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604

I.H CONFIDENTIAL INFORMATION

In accordance with 40 CFR Part 2 Subpart B, you may claim any information this permit requires, or is otherwise submitted to the Director, as confidential. You must assert any such claim at the time of submittal in the manner prescribed on the application form or instructions, or, in the case of other submittals, by stamping the words "Confidential Business Information" on each page containing such information. If you made no claim at the time of submittal, the Director may make the information available to the public without further notice. If you assert a claim, the information will be treated in accordance with the procedures in 40 CFR Part 2. (40 CFR § 270.12)

I.I DOCUMENTS TO BE MAINTAINED AT THE FACILITY

You must maintain at the facility, until closure is completed and certified by an independent registered professional engineer, the following documents and all amendments, revisions, and modifications to them.

I.I.1 Operating Record

You must maintain in the facility's operating record the documents required by this permit, and by the applicable portions of 40 CFR §§ 264.1035, 1064, 1084, 1088, 1089 and 40 CFR § 264.73 (as they apply to the equipment used to comply with this permit).

I.I.2 Notifications

You must maintain notifications from generators accompanying initial incoming shipments of wastes subject to 40 CFR Part 268 Subpart C, that specify treatment standards, as required by 40 CFR §§ 264.73, 268.7, and this permit.

I.I.3 Copy of Permit

You must keep a copy of this permit on site, including all the documents listed in any attachments, and you must update it as necessary to incorporate any official permit modifications.

I.J ATTACHMENTS AND DOCUMENTS INCORPORATED BY REFERENCE

I.J.1 All attachments and documents that this permit requires to be submitted, if any, including all plans and schedules are, upon the Director's approval, incorporated into this permit by reference and become an enforceable part of this permit. Since required items are essential elements of this permit, failure to submit any of the required items or submission of inadequate or insufficient information may subject you to enforcement action under Section 3008 of RCRA. This action may include fines, or permit suspension or revocation.

I.J.2 This permit also includes the documents attached hereto, all documents cross-referenced in these documents, and the applicable regulations contained in 40 CFR Parts 124, 260, 261, 262, 264, 268, 270, and the applicable provisions of RCRA, all of which are incorporated herein by reference.

I.J.3 Any inconsistency or deviation from the approved designs, plans and schedules is permit noncompliance. The Director may grant written requests for extensions of due dates for submittals required in this permit.

I.J.4 If the Director determines that actions beyond those provided for, or changes to what is stated herein, are warranted, the Director may modify this permit according to procedures in Condition I.B of this permit.

I.J.5 If any documents attached to this permit are found to conflict with any of the Conditions in this permit, the Condition will take precedence.

I.K COORDINATION WITH THE CLEAN AIR ACT

You must fully comply with all applicable Clean Air Act (CAA) and RCRA permit limits. Where two or more operating limitations apply, the most stringent operating limitations will ultimately take precedence.

SECTION II -- LAND DISPOSAL RESTRICTIONS (40 CFR PART 268)

II.A GENERAL CONDITIONS

II.A.1 You must comply with all the applicable self-implementing requirements of 40 CFR Part 268 and all applicable land disposal requirements which became effective by statute and have not authorized to the State for management in lieu of the federal programs. (42 U.S.C. § 6924)

II.A.2 A mixture of any restricted waste with non-restricted waste(s) is a restricted waste under 40 CFR Part 268.

II.A.3 Except as expressly allowed under 40 CFR Part 268, you must not in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with 40 CFR Part 268, Subpart D, to circumvent the effective date of a prohibition in 40 CFR Part 268, Subpart C, to otherwise avoid a prohibition in 40 CFR Part 268, Subpart C, or to circumvent a land disposal prohibition imposed by Section 3004 of RCRA.

II.A.4 You must maintain a current list of the EPA hazardous waste numbers handled by the facility that are identified in 40 CFR Part 268, Subparts B and C. The list must include all waste numbers handled by the facility, and any associated treatment standards, and shall be updated through the inclusion of new treatment standards, as promulgated or amended. This list must be provided to the U.S. EPA representatives, or their designees, upon request.

II.B. TESTING AND RELATED REQUIREMENTS

II.B.1 In accordance with 40 CFR § 268.7(a), you must test any waste generated at the facility, or use knowledge of the waste, to determine if the waste is restricted from land disposal.

II.B.2 You must comply with all applicable treatment standards provided in 40 CFR Part 268, Supart D.

II.B.3 You must comply with all the applicable notification, certification, and recordkeeping requirements described in 40 CFR § 268.7(a) and (b).

II.C STORAGE PROHIBITIONS

II.C.1 You must comply with all the applicable prohibitions on storage of restricted wastes specified in 40 CFR Part 268, Subpart E.

II.C.2 Except as otherwise provided in 40 CFR § 268.50, you may store restricted wastes in tanks and containers solely for the purpose of the accumulation of such quantities of hazardous wastes as necessary to facilitate proper recovery, treatment, or disposal provided that:

II.C.2.a Each container is clearly marked to identify its contents and the date each period of accumulation begins; and

II.C.2.b Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at the facility.

II.C.3 You may store restricted wastes for up to 1 year unless the U.S. EPA or its authorized agent can demonstrate that such storage was not solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal. (40 CFR § 268.50(b))

II.D BLENDING OF METAL WASTES

You must not dilute metal-bearing wastes (listed in Appendix XI of 40 CFR Part 268), if the dilute waste will be used as fuel in any RCRA permitted combustion facility, unless you have demonstrated that the diluted waste complies with one or more of the criteria specified in 40 CFR § 268.3(c).

SECTION III -- OTHER FEDERAL RCRA REQUIREMENTS

III.A ADDITIONAL HAZARDOUS WASTE NUMBERS

III.A.1 In addition to the hazardous waste numbers listed in the State-issued portion of the RCRA permit, you may handle the newly listed hazardous wastes, K169, K170, K171, K172, K174, and K175.

III.A.2 You may handle future newly listed hazardous waste(s) promulgated under the HSWA at your facility only if you have processed a Class 1 and/or Class 2 permit modification in accordance with 40 CFR § 270.42(g). All handling of these wastes must comply with the applicable provisions of both the State-issued and the Federal-issued portion of the RCRA permit.

SECTION IV -- AIR EMISSIONS STANDARDS (40 CFR Part 264, Subpart CC)

IV.A WASTE DETERMINATION

In accordance with the procedures specified in 40 CFR § 264.1083, you must determine the average volatile organic (VO) concentration of: (1) generated hazardous waste at the point of origination, and (2) treated hazardous waste. You must determine the maximum organic vapor pressure of a hazardous waste.

IV.B CONTAINERS

You must comply with all applicable requirements of 40 CFR § 264.1080 through 40 CFR § 264.1090, regarding air emission standards for containers handling hazardous waste. All containers not exempt from 40 CFR Part 264, Subpart CC must be managed using Level 1 control or Level 2 control as appropriate. You must not conduct any waste stabilization process, as defined in 40 CFR § 265.1081, in containers.

IV.B.1 Requirements for Level 1 Containers

You must manage hazardous waste with a VO concentration of 500 parts per million and greater by weight (ppmw) in containers with Container Level 1 standards as stipulated under 40 CFR § 264.1086(c). The hazardous waste stored in Level 1 containers must meet the following requirements.

IV.B.1.a Unless all containers are treated as Level 2 containers, they must be stored in a separate area or clearly marked to avoid potential mix-up with the Level 2 containers.

IV.B.1.b Containers with a design capacity greater than 0.46 m³ (122 gallons) shall not be used in light material service as defined in 40 CFR § 265.1081.

IV.B.1.c A Level 1 container must be one of the following:

- (1) It meets the applicable U.S. Department of Transportation (DOT) regulations as specified in 40 CFR § 264.1086(f),
- (2) It is equipped with a cover and closure devices with an acceptable tightness and construction materials in accordance with 40 CFR § 264.1086(c)(1)(ii), or
- (3) It is an open-top container with organic vapor suppressing barrier to prevent hazardous waste from being exposed to the atmosphere as specified in 40 CFR § 264.1086(c)(1)(iii).

Containers, which meet the requirements of Condition IV.B.1.c(2) or (3), must be equipped with covers and enclosures suitable for the physical and chemical characteristics of hazardous waste in containers, maintaining container integrity throughout the life of the container, and the environments under which the containers are placed in the storage facility. Any chemical used for vapor suppression must not generate heat and/or fume and must be compatible with the hazardous waste in the container. Vapor suppression chemicals must act as an acceptable and stable barrier to the hazardous waste, thus preventing releases of VO into the environment. The barrier shall not chemically react to the hazardous waste. (40 CFR § 264.1086(c)(2))

IV.B.1.d All covers and closure devices must be in closed position whenever hazardous waste is in a container. Opening of a closure device or cover is allowed if it meets the purpose and operates as defined in 40 CFR § 264.1086(c)(3)(i) through (v).

IV.B.1.e You must inspect the containers and their covers and closure devices in accordance with 40 CFR § 264.1086(c)(4).

IV.B.2 Requirements for Level 2 Containers

Containers with a design capacity greater than 0.46 m³ and in light material service must be managed and meet the requirements of Container Level 2 standards per 40 CFR § 264.1086(d).

IV.B.2.a Emission control: Containers must be one of the following:

- (1) It meets the applicable U.S. Department of Transportation regulations and 40 CFR § 264.1086(f) for the purpose of compliance,
- (2) It operates with no detectable organic emissions as defined in 40 CFR §§ 265.1081 and determined in accordance with 40 CFR § 264.1086(g), or
- (3) It is vapor tight within the preceding 12 months by using 40 CFR Part 60, Appendix A, Method 27. (40 CFR § 264.1086(d)(1))

IV.B.2.b Transfer of hazardous waste in or out of a container must be conducted using an engineered method generally accepted and practiced by the industry, or its equivalent method to minimize the release of organics into the atmosphere. (40 CFR § 264.1086(d)(2))

IV.B.2.c All covers and closure devices must be in closed position whenever hazardous waste is in a container. Opening of a closure device or cover is allowed if it meets the purpose and operates as defined in 40 CFR § 264.1086(d)(3)(i) through (v).

IV.B.2.d You must inspect the containers and their covers and closure devices in accordance with 40 CFR § 264.1086(d)(4).

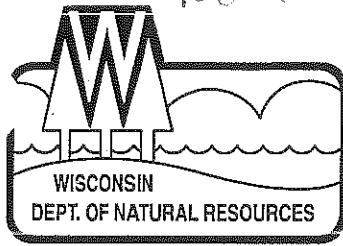
IV.C CONTAINERS EXEMPT FROM SUBPART CC CONTROL STANDARDS

III.C.1 Under this permit, you must demonstrate by direct measurement or approved method that for each container you claim to be exempt under Subpart CC, the average VO concentration for hazardous waste, determined in accordance with 40 CFR §§ 264.1083(a), 265.1084(a)(2), and (3), is less than 500 ppmw.

III.C.2 For each container, you must review and update this determination in accordance with 40 CFR § 264.1082(c)(1) at least once every 12 months following the date of the initial determination. For each container, you must prepare and maintain the records described in 40 CFR § 264.1089(f). These records must be maintained as part of the operating record.

IV.D RECORDKEEPING AND REPORTING REQUIREMENTS

The Permittee shall comply with all applicable recordkeeping and reporting requirements described in 40 CFR § 264.1089 and § 264.1090.



State of Wisconsin | DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary
Gloria L. McCutcheon, Regional Director

Southeast Region Headquarters
2300 N. Dr. Martin Luther King, Jr. Drive
Milwaukee, Wisconsin 53212-0436
Telephone 414-263-8500
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TTY 414-263-8713

June 29, 2007

Mr. Henry Krier
Badger Disposal of Wisconsin, Inc.
5611 West Hemlock Street
Milwaukee, WI 53223

FID# 241384000
HW/APP

SUBJECT: Final Determination to Conditionally Approve a
Feasibility and Plan of Operation Report for a
Hazardous Waste Treatment and Storage Facility at
Badger Disposal of Wisconsin, Inc., WI, EPA ID# WID 988580056
5611 West Hemlock Street in Milwaukee, Wisconsin

Dear Mr. Krier:

The Department of Natural Resources has reviewed the Feasibility and Plan of Operation Report (FPOR) and subsequent submittals for Badger Disposal of Wisconsin, Inc. located at 5611 West Hemlock Street in Milwaukee, Wisconsin. The FPOR was prepared by Badger Disposal of Wisconsin, Inc. (Badger Disposal) and their consultant, Spectrum Engineering, Inc. A preliminary determination to conditionally approve the FPOR was issued by the Department on February 28, 2007. The final approval of the FPOR is enclosed. In addition, this letter confirms that the Department has determined that no environmental impact statement is required, the wetlands water quality standards of ch. NR 103, Wis. Adm. Code, have been met and the needs requirements of s. 289.28 have been met.

The Department received written comments as a result of the public comment period regarding the preliminary determination to conditional approve the FPOR. The Department's response to the public comments is enclosed.

Please review the conditions in the enclosed final determination carefully. The following changes were made to the preliminary determination to clarify the requirements of the conditions or correct errors:

1. Condition #9 requiring Badger Disposal to send a copy of the FPOR to the library and affected municipalities has been deleted since it applied to the preliminary determination rather than the final determination.
2. Condition #10 has been revised to clarify that trucks cannot park on the public road overnight or on weekends.
3. Condition #11 has been revised to require Badger Disposal to ensure that the integrity of the fence not on their property is maintained.

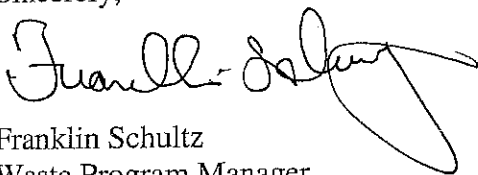
4. Condition #17, which stated the same corrective action requirement as condition #6, now requires Badger Disposal to re-submit the Part A within 60 days of this final determination. The condition requires the Part A to be revised to include the T04 treatment code for the current fuel blending operations in a tanker truck.
5. Condition #22 has been revised to require a compatibility determination by the mixing of samples of wastes that are to be commingled during blending or bulking operations rather than blending or storage operations.
6. Condition #41, paragraph c. has been reworded to state that any modification request resulting from the construction of new units be in accordance with the requirements in s. NR 670.042, Wis. Adm. Code.

Based on information provided in the FPOR and subsequent submittals, it is the Department's determination that Badger Disposal will allow satisfactory hazardous waste treatment and storage of hazardous waste, provided the facility complies with the Feasibility and Plan of Operation Report, the conditions of the approval and chapters NR 660 to NR 670, Wis. Adm. Code. Note that the Department retains jurisdiction to either require the submittal of additional information or to modify this approval at any time if, in the Department's opinion, conditions warrant further modifications.

As required by NR 670.415(2), Wis. Adm. Code, the Department will publish the attached notice of intent to issue an operating license in the Milwaukee Journal Sentinel and Wisconsin State Journal on July 24, 2007. Section NR 670.415(3), Wis. Adm. Code, requires the Department to re-issue the operating license within 30 days of publishing the notice or refund the operating license review fee.

If you have any questions or concerns, please contact me at (414) 263-8694 or Sandy Miller at (920) 746-2884.

Sincerely,



Franklin Schultz
Waste Program Manager
South East Region

Attachments -- Final FPOR Determination
Department response to comments
Public notice of intent to re-issue the license

cc: Don Gallo -- Reinhart, Boerner, Van Deuren
Pete Flaherty - LS/5
Pat Chabot/Dave Kollasch - WA/3
Wen Huang - U.S. EPA Region 5

**BEFORE THE STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

**FINAL DETERMINATION
FEASIBILITY AND PLAN OF OPERATION REPORT**

**BADGER DISPOSAL OF WISCONSIN, INC.
EPA ID# WID988580056
FID# 241384000**

GENERAL FACILITY INFORMATION

Facility Name, Site Operator, and Address

Badger Disposal of Wisconsin, Inc.
Henry J. Krier, President
5611 West Hemlock Street
Milwaukee, WI 53223

Facility and Property Owner

Badger Investment Realty, LLC
5611 West Hemlock Street
Milwaukee, WI 53223

Facility Location

The Southwest 1/4 of Section 14, Township 8 North, Range 21 East
City of Milwaukee, Milwaukee County, Wisconsin

Facility Contacts

Henry Krier, President
Kandylee Schmit, Compliance Officer
414-760-9175

Consultant

Renee Smits, P.E.
Spectrum Engineering, Inc.
19395 West Capitol Drive
Brookfield, WI 53045
262-783-7725

Facility Description – Current Facility Operations

The facility at 5611 West Hemlock Street in Milwaukee began operations as EOG Disposal on September 1, 1990. A hazardous waste facility interim license was issued to EOG Disposal on March 15, 1994. The initial hazardous waste facility operating license was issued to EOG Disposal on December 16, 1996. In early 2003, the name of the facility changed from EOG Disposal to Badger Disposal of Wisconsin, Inc., as a result of an ownership change. On May 6, 2003, the Department approved a Class 1 license modification recognizing the ownership and name change.

Badger Disposal is located on approximately 3 acres of land. Badger Disposal is immediately surrounded by manufacturing, warehousing and other commercial activities. Badger Disposal serves over 900 clients of commercial, institutional, governmental and industrial companies nationwide.

Badger Disposal currently operates a licensed hazardous waste and nonhazardous waste storage facility within an existing building which consists of an 11,000 square foot licensed storage area and other non-regulated areas, such as a laboratory, reception area and administrative offices. The building is constructed of 12-inch thick outside walls and reinforced concrete floors. Six-inch high, ten-inch thick concrete berms are constructed where exits from the regulated storage area to non-containment areas exist. A 4-hour rated fire wall has been constructed with automatic fire doors which will close if excessive heat is detected, isolating the hazardous waste processing and storage area from the laboratory and office area.

The storage area in the existing warehouse building has the capacity to store up to 1,720 55-gallon containers (94,600 gallons) of hazardous and nonhazardous waste. The total capacity consists of a combination of hazardous waste and nonhazardous waste containers which are not to exceed a maximum of 720 55-gallon hazardous waste containers (39,600 gallons) and 1,500 55-gallon nonhazardous waste containers (82,500 gallons). Containers of nonhazardous waste and containers of hazardous waste solids and lab packs are stored two high. Containers of hazardous waste liquids are not stacked. Containers of hazardous waste liquids and lab packs are stored on 6 or 8 drum spill containment pallets which have capacity to contain at least 10% of the container volume.

The primary function of Badger Disposal is the bulking and transfer of hazardous and nonhazardous waste for recycling, fuel blending and other waste management methods. The majority of the wastes received at Badger Disposal are organic hazardous wastes (F001, F002, F003, F005 and D001 hazardous wastes) and nonhazardous wastes that are shipped off-site to be recycled or burned as a fuel in industrial furnaces. Badger Disposal is also approved to store corrosive, reactive and toxic characteristic hazardous wastes (D002-D043 hazardous wastes), listed hazardous wastes from non-specific sources (F-listed hazardous wastes), listed hazardous wastes from specific sources (K-listed wastes) and toxic and acute commercial chemical products and manufacturing chemical intermediates (U- and P- listed hazardous wastes). Wastes that are not burned as fuel are bulked for off-site metal recovery, neutralization and other waste management methods. Containers of waste that are not bulked are stored on-site until enough accumulate for an economical shipment off-site.

Badger Disposal accepts containers of lab-packed waste into its storage facility. The small containers in the lab-packs are not emptied, but are re-packed into larger lab-pack containers before they are shipped to off-site treatment, storage or disposal facilities. The lab pack container is re-packed while it is located on a spill containment pallet to minimize potential spills. The lab pack operations are performed in designated areas that are placarded and delineated by markings on the floor. Badger Disposal stores gas cylinders in its storage facility until enough have been accumulated for economical shipment to a permitted treatment or disposal facility. Badger Disposal was issued a conditional exemption for the storage and transfer of polychlorinated biphenyls (PCBs) on February 9, 2006. The conditional exemption allows Badger Disposal to store and bulk PCB wastes, such as ballasts, transformers and other PCB containing materials in the hazardous waste storage facility. Badger Disposal punctures aerosol cans using a puncturing device which de-pressurizes the cans and allows them to drain. The liquid contents of the aerosol cans are drained into a 55 gallon container and may be fuel blended. The drained aerosol cans are sent off-site for metal recycling.

Before containers of hazardous waste are shipped to Badger Disposal, a waste profile form is completed by the generator. The waste profile includes generator information, a waste description, general characteristics and composition such as viscosity, % water, total suspended solids, pH, BTU's, flash point, halogens, and metals content. Generators are required to re-submit waste identification forms annually. Profiles for containers of lab packed waste include an inventory list of laboratory chemicals packed in each drum. After the waste is received by Badger Disposal, the waste is sampled and analyzed to verify the properties of the waste stated on the waste profile form.

Badger Disposal also blends hazardous wastes so they can be burned as a fuel in off-site boilers and industrial furnaces, such as cement kilns. Containers of hazardous waste that are selected for fuel blending are staged inside the bermed warehouse area near Dock 2 located on the east side of the existing warehouse building. A 6,000 gallon vacuum truck trailer is backed over the berm and the contents of the selected drums are pumped into the trailer while it is parked within the containment area of the warehouse building. A liquid level control on the tanker indicates when the tanker is full. Before transport, a sample of the material in the tanker is obtained and analyzed to determine if the mixture meets fuel blending specifications. The valves are closed and capped and the trailer is inspected to make sure it is not leaking. A new manifest accompanies the outbound shipment which is transported to an approved cement kiln for use as a secondary fuel. Empty containers generated by pumping the waste into the vacuum truck are either crushed or stored at Badger Disposal until they shipped to a drum recycler.

Total Treatment Capacity

Badger Disposal treats hazardous wastes to meet fuel blending specifications. Fuel blending is currently performed in a 6,000 gallon vacuum truck parked within the spill containment area of the existing warehouse building. Badger Disposal is proposing to construct a blending area on the east side of the existing warehouse building where a 2,000 gallon blending tank will be located. Waste will be pumped from the blending tank to four 12,000 gallon storage tanks in the

proposed tank farm. See sheet 2 of 18 (July 1994) for the tank configuration. The blending tank and tank farm will replace the current fuel blending operations in the vacuum truck.

Total Hazardous Waste Container Storage Capacity

The maximum storage capacity in the existing warehouse building is 720 fifty-five gallon containers or 39,600 gallons of hazardous waste. The 39,600 gallon maximum capacity in the existing warehouse includes the 6,000 gallon vacuum truck into which the wastes are fuel blended. See drawing number 05490-D1 (08/25/06) for the layout of containers.

The maximum storage capacity in the proposed addition to the existing warehouse building is 492 fifty-five gallon containers or 27,060 gallons of non-ignitable hazardous waste. See Sheet 10 of 18 in Appendix P (June 1994) for the container layout in the proposed addition.

The maximum storage capacity in the proposed lab pack building is 145 fifty-five gallon containers or 7,975 gallons. See Sheet 11 of 18 in Appendix P (July 1994) for the container layout in the proposed lab pack building.

The maximum storage capacity in the proposed bulk solids area is six 20 cubic yard roll off boxes. See Sheet 3 of 3 in Appendix P (10/30/95) for the layout of the roll off box storage area. The maximum storage capacity of bulk solids storage in the existing warehouse building in the repack area and roll off loading area is one 20 cubic yard roll off box. See Drawing #05490-D1 (08/25/06).

Badger Disposal will use 5, 10, 14, 20, 30, 55, 85 gallon drums, 275 gallon totes and cubic yard bags and boxes to store hazardous waste in the existing warehouse building, the proposed addition to the warehouse building and the proposed lab pack building. After construction is completed, the maximum storage capacity for containers, other than roll off boxes, will be the equivalent of 1,357 fifty-five gallon containers, or 74,635 gallons.

Total Hazardous Waste Tank Storage Capacity

The maximum storage capacity in the proposed lab pack building will be two 5,500 gallon above ground tanks for a total of 11,000 gallons. See sheet 11 of 18 in Appendix P (July 1994). One tank will be used to store acid waste and one tank will be used to store basic waste.

The maximum storage capacity in the proposed tank farm will be four 12,000 gallon tanks for a total of 48,000 gallons. See sheet 12 of 18 in Appendix P (August 1994).

After construction is completed, the total quantity of hazardous waste stored in tanks will be 61,000 gallons which includes the 2,000 gallon fuel blending tank in the existing warehouse building.

Facility Operation - Proposed Construction

Badger Disposal proposes to construct the following units:

1. A new tank farm;
2. A new lab pack building;
3. Roll off/lugger box storage area; and,
4. An addition to the existing warehouse building.

1. The proposed tank farm: A 2,000 gallon fuel blending tank will be located in the repack area on the east end of the existing warehouse building. Solids which are suitable for fuel blending will be augered from drums and directed to the fuel blend tank. Liquids suitable for fuel blending will also be pumped into the 2,000 gallon fuel blending tank. A minimum liquid level will be maintained in the blending tank at all times to allow solids from the drum auger to be blended. The contents of the blending tank will be continuously mixed to achieve a homogeneous blend which will be pumped to the bulk storage tank system consisting of four 12,000 gallon carbon steel above ground storage tanks. The bulk storage tank system will be located in a 40 feet by 40 feet lined and coated concrete containment area provided with a canopy.

2. The proposed lab pack building: The totally enclosed lab pack building will be 104 feet by 60 feet and constructed to provide for the maximum storage of 145 55-gallon drums in 5 distinct containment areas. Each containment area will be 20 feet by 13 feet and designed to store up to 29 drums each of acidic, basic, ignitable, reactive waste or oxidizers. A containment area for drums of basic waste will be next to a 5,500 gallon above ground storage tank for basic waste. A containment area for drums of acidic waste will be next to a 5,500 gallon above ground storage tank for acid waste. Each of the tanks will be constructed of lined carbon steel, equipped with continuous readout non-contact ultrasonic level controls and located in a 15 feet by 15.5 feet room. The lab pack building will also have 5 lab-pack bays, which will be used to repack acidic, basic, ignitable, reactive wastes or oxidizers. Once the waste is repacked into 55 gallon drums, the waste will either be bulked into the acid or caustic storage tank in the lab pack building or transferred to the warehouse building where it will be processed into fuels or stored until it is shipped off-site for disposal or recycling. The lab pack building will also house a scrubber system, consisting of ventilation equipment, a carbon adsorber and an alkaline oxidation scrubber.

3. The proposed roll off/lugger box storage area: A maximum of 6 20-cubic yard roll off/lugger boxes will be stored on a 60 feet by 22 feet concrete slab enclosed with a canopy. The floor slab will be constructed of 8 inch thick reinforced concrete. Concrete curbing monolithically joined to the concrete floor slab will provide adequate secondary containment for the volume of one 20 cubic yard roll-off box. The roll off/lugger boxes will be used to store solid hazardous and nonhazardous waste of like chemical compatibility. Roll off/lugger boxes will be accepted from generators and shipped off-site under generic outgoing approvals. One roll off/lugger box stored inside the existing warehouse will be used to bulk waste. Fifty-five gallon containers of solids will be emptied into the roll-off box using the same variable speed hydraulically driven auger used to empty containers of hazardous waste destined for fuel blending.

4. The proposed addition to the existing warehouse building: The addition will be constructed to the south of the existing building and will add 40 feet by 150 feet of additional space for container storage. The addition will provide for the storage of a combination of up to 492 containers of non-ignitable hazardous waste and up to 984 containers of non-ignitable nonhazardous waste, not to exceed a maximum capacity of an equivalent of 984 55-gallon containers (53,900 gallons).

Re-licensing Procedures

The initial hazardous waste operating license for storing hazardous waste in containers and tanks was issued on December 16, 1996. The initial operating license is effective for 10 years from the date of issuance. On June 17, 2005, the Department issued a call-in letter to Badger Disposal requiring them to either pursue relicensing by submitting a Feasibility and Plan of Operation Report (FPOR) or notify the Department of its intent to close the facility. Badger Disposal has chosen to continue to operate its licensed hazardous waste storage facility. Badger Disposal submitted an FPOR, as required by s. NR 670.010(8), Wis. Adm. Code, on March 17, 2006. The FPOR submitted by Badger Disposal describes how the facility will conduct its operations in compliance with the applicable requirements of the Department's hazardous waste management rules, chs. NR 660 to 679, Wis. Adm. Code.

Determination of Need

The Department believes there is a need for the Badger Disposal facility to store and treat hazardous waste. The purpose of Badger Disposal's bulking and fuel blending facility is to collect and direct waste streams to reclamation and beneficial re-use operations wherever possible. The recycling of materials handled at Badger Disposal is most cost effective when managed in bulk quantities. Generators sending waste to Badger Disposal generate small quantities of waste which would otherwise be solidified and disposed in landfills or incinerated. The bulking operations at Badger Disposal allow these wastes to be directed to recycling or beneficial re-use programs rather than landfilling. Examples of these recycling and beneficial re-use programs include the blending of wastes for use as fuels at cement kilns and the use of wastewater for cooling and make-up water in the cement-making process.

Many of the companies sending waste to Badger Disposal generate waste in small quantities. The disposal of small quantities of waste by the generator can be difficult and expensive. Badger Disposal stores and bulks these smaller quantities of wastes into larger containers for eventual shipment off-site, which can decrease the treatment or disposal costs for the generator.

Licensing History (Approvals/Determinations)

On March 8, 1993, EOG Disposal submitted an application for an interim license to store hazardous waste. On March 15, 1994, the Department issued an interim license application determination which conditionally approved the interim license application. The interim license allowed EOG Disposal to store in containers the additional twenty-five hazardous waste codes resulting from the promulgation of the toxicity characteristic (TC) rule. A condition of the interim license required EOG Disposal to submit a FPOR within 180 days of the approval.

The FPOR was submitted in September 1994. The initial FPOR approval for hazardous waste storage was issued to EOG Disposal on April 19, 1996. The hazardous waste storage facility operating license was issued on December 16, 1996. In addition, the Department issued the following approvals for the facility:

- August 23, 1996 Conditional Approval for Legitimate Recycling Exemption – Hazardous Waste Burned for Energy Recovery/Fuel Blending and Marketing Activities.
- May 14, 1997 Construction Determination and License Modification Determination Second Phase of the Hazardous Waste Management Storage Facility to allow the storage of ignitable waste in the existing warehouse building.
- June 17, 2003 Conditional Class 1 Plan Modification Final Determination for Name and Ownership Change to Badger Disposal of Wisconsin, Inc.
- January 7, 2004 Class 2 Plan Modification Request to store hazardous waste containers two high without increasing the storage capacity.
- January 29, 2004 Conditional Class 1 Modification Determination – Revised Container Storage Layout
- April 6, 2004 Conditional Class 1 Modification Determination – Revised Container Storage Layout
- August 15, 2006 Temporary Authorization Request granting conditional approval to continue fuel blending operations since the May 14, 1997 conditional approval for the legitimate recycling exemption is no longer effective due to the adoption of the new Wisconsin hazardous waste administrative code.
- February 13, 2007 Re-issuance of the Temporary Authorization Determination for fuel blending operations

Regulatory Status of Fuel Blending

On August 1, 2006, the State of Wisconsin repealed and re-created the hazardous waste administrative code, chs. NR 600 to 690. The hazardous waste administrative code in effect at the time the initial license was issued to EOG Disposal allowed the Department to grant a recycling exemption under ch. NR 625 for fuel blending activities. A recycling exemption approval was issued to EOG Disposal on August 23, 1996. On August 1, 2006, ch. NR 625 was repealed. Fuel blending activities are now subject to full hazardous waste treatment facility requirements, including licensing. The Department issued a notice of the change in regulatory status to Badger Disposal on June 14, 2006 and requested Badger Disposal to submit a temporary authorization request to allow Badger Disposal to continue fuel blending activities, pending licensing. Badger Disposal submitted the temporary authorization request on July 10, 2006. The temporary authorization conditional approval issued by the Department on August 15, 2006 required Badger Disposal to include information regarding the fuel blending activities in the FPOR. The temporary authorization conditional approval was re-issued on February 13, 2007 and expires within 180 days or until a treatment license is issued by the Department, whichever occurs first.

If the Department's final decision is to approve the FPOR, a hazardous waste treatment facility operating license will be issued to Badger Disposal for the fuel blending activities. The Department does not consider the issuance of a treatment license to be either a new facility or an

expansion of the existing Badger Disposal facility, since the fuel blending activities have occurred at Badger Disposal since the ch. NR 625 exemption approval was issued on August 23, 1996. Badger Disposal is not changing their waste management activities; rather, the Department is changing administrative authority to regulate the fuel blending activity.

Closure

Badger Disposal expects to operate for the next 50 years with no partial closure of the facility anticipated. The FPOR includes a detailed closure plan and cost estimates for completing closure. The closure plan includes the removal of the maximum allowable quantity of hazardous waste stored and treated at the facility and decontamination procedures for all of the surfaces and equipment in the tank and container storage and treatment areas.

Financial Responsibility

The cost for final closure of the Badger Disposal facility is estimated to be \$181,495.00. The closure cost estimate is adjusted annually for inflation. Badger Disposal is required to maintain on file with the Department adequate proof of financial responsibility to cover the cost of closure. Currently Badger Disposal has on file an irrevocable letter of credit for closure.

The facility also maintains a pollution liability insurance policy for sudden environmental releases of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.

FINDINGS OF FACT

The Department finds that:

1. Badger Disposal of Wisconsin, Incorporated (Badger Disposal) currently operates a hazardous waste container storage unit and treatment unit in an existing warehouse building, according to the facility standards stated in chs. NR 660 to 679, Wis. Adm. Code. A maximum capacity of 720 55-gallon containers of hazardous waste is stored in the existing warehouse building. A 6,000 gallon vacuum truck is used for fuel blending operations. The trailer of the vacuum truck is parked in the existing warehouse building while wastes selected for fuel blending are pumped from the containers into the trailer. Selective fuel blending is hazardous waste treatment subject to hazardous waste licensing requirements.
2. On March 15, 1994, the Department issued an interim hazardous waste storage license to EOG Disposal, Incorporated. The interim license allowed EOG Disposal, Inc., to store in containers the additional twenty-five hazardous waste codes resulting from the promulgation of the toxicity characteristic (TC) rule.
3. On April 19, 1996, the Department conditionally approved a FPOR submitted by EOG Disposal, Inc.
4. On August 23, 1996 the Department issued a recycling exemption conditional approval to EOG Disposal, Inc. under the authority of s. NR 625.07, Wis. Adm. Code, for the fuel blending of hazardous waste.

5. On December 16, 1996, the Department issued the initial hazardous waste storage facility operating license to EOG Disposal, Inc. The license is effective for 10 years.
6. On May 14, 1997 the Department issued a construction determination and license modification determination for the second phase of the hazardous waste storage facility allowing EOG Disposal to store ignitable hazardous waste in the existing warehouse building.
7. On June 17, 2003 the Department issued a conditional class 1 plan modification final determination to change the ownership of the facility to Badger Investment Realty, LLC. The name of the facility changed from EOG Disposal, Inc. to Badger Disposal of Wisconsin, Inc.
8. On June 17, 2005, the Department issued a call-in letter requesting Badger Disposal to either initiate closure or seek re-licensing of the facility by submitting a FPOR.
9. On August 24, 2005, Badger Disposal submitted an Incident Report for a fire that occurred on the property. The report indicated that samples of the debris, asphalt and soils in the affected area were collected and submitted for analysis.
10. On March 17, 2006, Badger Disposal submitted the FPOR and requested the Department to re-issue a 10 year operating license. A check in the amount of \$7,800 was included for the review fee.
11. On May 16, 2006, the Department issued a Notice of Incompleteness for the FPOR and requested a response by July 16, 2006.
12. On June 14, 2006, the Department sent a letter to Mr. Henry Krier, President of Badger Disposal, stating that new hazardous waste rules would be in effect sometime in August 2006. Mr. Krier was notified that the recycling exemption conditional approval issued under ch. NR. 625, Wis. Adm. Code, for the fuel blending activity at Badger Disposal would no longer exist after the new rules took effect. The Department acknowledged that affected facilities are not changing their waste management activities. Rather the Department is changing the administrative authority to regulate the activity from a recycling exemption approval to a licensed treatment activity. The Department requested Badger Disposal to submit a temporary authorization request by July 10, 2006 if it intended to continue fuel blending activities.
13. On July 6, 2006, Badger Disposal requested that the submittal date for its response to the FPOR notice of incompleteness be extended to September 16, 2006.
14. On July 10, 2006, Badger Disposal submitted a temporary authorization request to continue fuel blending activities.
15. On July 11, 2006, the Department granted an extension allowing Badger Disposal to submit its response to the May 16, 2006 FPOR notice of incompleteness by September 16, 2006.
16. On August 1, 2006, the revised State of Wisconsin hazardous waste administrative code was adopted.
17. On August 3, 2006, the Department received a complaint alleging that containers of hazardous waste and flammable materials were being stored outside on the east side of the Badger Disposal storage building. On August 3, the Department investigated the complaint allegations and found that the drums stored outside were empty.
18. On August 15, 2006, the Department issued Badger Disposal a temporary authorization conditional approval for fuel blending activities.
19. On September 15, 2006, the Department received Badger Disposal's response to the May 16, 2006 FPOR notice of incompleteness.

20. On October 4, 2006, the Department received information that soils had been excavated on the east side of the storage building. Badger Disposal informed the Department on October 4, 2006 that soils had been excavated to create a turn-out for the vacuum truck backing into the east loading dock for fuel blending operations. Badger Disposal informed the Department that crushed stone would likely be used for the turn-out.
21. On October 10, 2006, the Department collected samples from a pile of soil that was excavated on the east side of the storage building. The samples were submitted for VOC and PAH analysis.
22. On November 15, 2006, the Department met with Badger Disposal and its consultant to discuss air emission requirements and ch. NR 664 subch. CC, Wis. Adm. Code, requirements that apply to the fuel blending operations. EPA permitting staff and DNR air compliance staff participated in the meeting. After the meeting, the Department sent an e-mail requesting Badger Disposal to submit specific information regarding the fuel blending operation to the Department by December 30, 2006.
23. On December 14, 2006, the Department prepared a correspondence memorandum regarding the need for corrective action at Badger Disposal. The correspondence memorandum documents the Department's decision that corrective action at Badger Disposal is not necessary at this time.
24. On December 26, 2006, Badger Disposal submitted replacement pages to Section 7 of the FPOR which included revised rejection procedures for incoming shipments of hazardous waste.
25. On January 3, 2007, the Department received Badger Disposal's December 26, 2006 response to the Department's November 15, 2006 e-mail regarding air emission requirements.
26. On February 6, 2007, the Department requested additional information regarding a fire resulting from the bulking of metal bearing wastes on August 17, 2005.
27. On February 6, 2007, Badger Disposal requested the Department to re-issue the temporary authorization for the fuel blending operation.
28. On February 7, 2007, Badger Disposal supplied the additional information regarding the fire on August 17, 2005.
29. On February 13, 2007, the Department re-issued a 6-month temporary authorization approval for the fuel blending operation.
30. On February 28, 2007, the Department issued a preliminary determination to conditionally approve the FPOR.
31. On March 1, 2007, the Department requested additional information regarding the August 17, 2005 fire.
32. On March 12, 2007, Badger Disposal notified the Department that a copy of the updated FPOR was sent to the Milwaukee Public Library and affected local municipalities.
33. On March 15, 2007, the preliminary determination was public noticed in the Milwaukee Journal Sentinel and State Journal and broadcasted on radio station WFMR.
34. On March 22, 2007, the Department issued a news release stating the preliminary determination reaffirmed that approving the license would not significantly affect the quality of human health or the environment.
35. On March 27, 2007, Badger Disposal submitted the additional information to the Department regarding the August 17, 2005 fire.

36. On April 11, 2007, the Department received comments regarding the preliminary determination issued by the Department.
37. On April 24, 2007, the Department updated the decision regarding the need for corrective action made on December 14, 2006. Based on additional information supplied on March 27, 2007, corrective action is necessary in the area of the August 17, 2005 fire.
38. On May 16, 2007, additional comments were received on the preliminary determination issued by the Department. The late comments were accepted due to delays in providing the public files.
39. On May 25, 2007, Badger submitted updated pages to the contingency plan and revised compatibility procedures.
40. On June 29, 2007, the Department responded to the comments received on April 10, 2007 and May 16, 2007.

CONCLUSIONS OF LAW

The Department concludes that:

1. The Department promulgated chs. NR 660 through 679, Wis. Adm. Code, establishing minimum requirements for hazardous waste management under the authority of chs. 289 and 291, Wis. Stats.
2. The Department has the authority to conditionally approve a FPOR if the conditions are necessary to ensure compliance with chs. NR 660 through 679, Wis. Adm. Code, pursuant to s. 289.30(6), Wis. Stats.
3. Pursuant to s. 289.31, Wis. Stats., and s. NR 670.050, Wis. Adm. Code, the Department may issue annual renewals of hazardous waste operating licenses for an effective period of up to 10 years. If the licensee chooses to operate or maintain a hazardous waste facility after the 10-year effective period ends, the licensee must submit, at least 180 days before the end of the effective period, a new operating license application consisting of a part A application form, the feasibility and plan of operation report and any supplemental information, as specified in s. NR 670.010(1), (3) and (8), Wis. Adm. Code, and the applicable sections of chs. NR 660 to 679, Wis. Adm. Code.
4. The Department promulgated ch. NR 103, Wis. Adm. Code, to preserve and protect the water quality of wetlands.
5. Pursuant to s. 289.30(6), Wis. Stats., and ch. NR 670, Wis. Adm. Code, the Department has the authority to issue hazardous waste facility plan approvals.
6. The conditions of approval set forth below are necessary to ensure compliance with chs. NR 660 through 679, Wis. Adm. Code.

DETERMINATION

In accordance with s. 289.28(3), Wis. Stats., the Department has determined that there is a need for the facility to store and treat hazardous waste as approved. The Department has further determined that there is no need for an environmental impact report or environmental impact statement for this facility at this time, pursuant to s. 1.11, Wis. Stats., and ch. NR 150, Wis. Adm. Code, and that the existing facility conforms to wetlands water quality standards pursuant to ch. NR 103, Wis. Adm. Code.

Based on the above Findings of Fact and Conclusions of Law, the Department hereby approves the hazardous waste feasibility and plan of operation report for Badger Disposal of Wisconsin, Inc., submitted on March 17, 2006 and amended on September 15, 2006, December 26, 2006 and May 25, 2007, subject to compliance with ch. 291, Stats., chs. NR 660 through NR 679, Wis. Adm. Code, and the following conditions.

CONDITIONS OF APPROVAL

Badger Disposal of Wisconsin, Inc. is subject to the following conditions:

General Conditions

1. The storage and treatment facility shall be operated in accordance with the approved Feasibility and Plan of Operation Report (FPOR), the requirements of ch. 291, Wis. Stats., chs. NR 660 to 679, Wis. Adm. Code, and the conditions of this approval.
2. The Department retains the right to modify this approval and to require the submittal of additional information. Nothing in this conditional approval shall relieve Badger Disposal of the legal obligation to comply with applicable federal, state and local approvals.
3. The conditions set out in s. NR 670.030, Wis. Adm. Code, apply to this facility and are hereby incorporated by reference and made a part of this approval and of any operating license which may be issued for the facility based upon this approval.
4. Badger Disposal shall comply with all applicable statutes and rules relating to spills, leaks, or other releases of hazardous waste or other hazardous substances, including ch. 292, Wis. Stats., subch. D of ch. NR 664, Wis. Adm. Code, and chs. NR 700 to 754, Wis. Adm. Code.
5. The licenses for operating the container storage units, the tank storage units and the treatment (fuel blending) unit are subject to the annual renewal of operating license fees listed in Appendix II, ch. NR 670, Wis. Adm. Code.
6. The Department reserves the right to require corrective action by Badger Disposal under the authority of s. 291.37, Wis. Stats., and chs. NR 660 to 679, Wis. Adm. Code.
7. Badger Disposal shall comply with all applicable requirements of the Department's air pollution control rules stated in chs. NR 400 to 499, Wis. Adm. Code, and directives including but not limited to obtaining all necessary permits to operate in accordance with these rules.

Badger Disposal shall notify the Department of any change in operation that results in an increase in the maximum potential emissions of an air contaminant or which results in the emission of an air contaminant not previously emitted.

8. Badger Disposal shall comply with all applicable air management permit conditions and hazardous waste licensing conditions. When two or more operating limitations apply, the most stringent operating limitations take precedence.
9. Trucks containing hazardous waste may not be parked on the public road adjacent to the Badger Disposal facility overnight or over the weekend.
10. Until the fence is re-located onto the Badger Disposal property, Badger Disposal shall ensure the integrity of that portion of the fence located on property not owned by Badger Disposal.
11. The drum crusher unit may only be used to crush drums that are empty, as defined in s. NR 661.07(2), Wis. Adm. Code. Before using the drum crusher unit to crush non-empty drums, Badger Disposal shall submit a modification request for operation of a miscellaneous unit.
12. The aerosol can puncturing device shall be operated in accordance with good engineering practices. The air emissions from the puncturing operations shall be captured using a control device such as a carbon adsorption system. The carbon unit on the puncturing device shall be replaced with fresh carbon at a regular, predetermined time interval that is no longer than the carbon service life.
13. Empty containers stored outside shall be kept under cover or sheltered.
14. The surface area to the east of the existing warehouse building that is used to access Dock #2 for fuel blending operations shall be paved with an impervious surface. An outline of activities related to the paving of the roadway and turn-out, including timeframes, shall be submitted to the Department within one month of the date of the final feasibility and plan of operation determination. If the grading and paving operations are not according to sheet 3 of 16 in Appendix P of Volume II of the FPOR, Badger shall submit a class 1 modification request for the paving activity.
15. Badger Disposal shall supply information demonstrating compliance with s. NR 664.0032(4), Wis. Adm. Code, within one month of the date of the final feasibility and plan of operation determination. Section NR 664.0032(4), Wis. Adm. Code, requires the facility to be equipped with water at adequate volume and pressure to supply water hose streams, foam producing equipment, automatic sprinklers or water spray systems.
16. Within 60 days of the date of the final feasibility and plan of operation determination, Badger Disposal shall submit a revised Part A form 8700-23 which includes the current fuel blending operations in a tanker truck (T04 process code).

Specific Conditions For All Hazardous Waste Storage and Treatment Units

17. Badger Disposal may store or treat only hazardous wastes bearing the waste codes listed in the Part A application signed and dated March 3, 2006. Wastes with similar characteristics, yet different hazardous waste codes, may only be managed at the facility after receiving written approval from the Department following a modification to this determination and the submission of a revised Part A application.

18. Badger Disposal may not store hazardous waste in quantities greater than those stated below:

- a. Existing warehouse: A maximum of 720 55-gallon containers or 39,600 gallons of hazardous waste or a maximum of 1,500 containers or 82,500 gallons of nonhazardous waste. If a combination of hazardous and nonhazardous waste containers is stored in the existing warehouse, the total quantity may not exceed 1,720 55 gallon containers or 94,600 gallons with no more than 39,600 gallons of hazardous waste and no more than 82,500 gallons of nonhazardous waste stored at any time. The quantity of 6,000 gallons of hazardous waste in containers waiting to be fuel blended or already pumped into the vacuum truck shall count towards the maximum capacity of 39,600 gallons of hazardous waste.
- b. Addition to the existing warehouse: A maximum of 492 55-gallon containers or 27,060 gallons of non-ignitable hazardous waste or a maximum of 984 55-gallon containers or 54,120 gallons of nonhazardous waste. If a combination of hazardous and nonhazardous waste containers is stored, the total quantity may not exceed 984 55-gallon containers or 54,120 gallons with no more than 27,060 gallons of non-ignitable hazardous waste stored at any time.
- c. Tank Farm: A maximum of one 2,000 gallon above ground blending tank in the re-pack area of the existing warehouse and four 12,000 gallon above ground storage tanks in a tank farm.
- d. Lab pack building: A maximum of 145 55-gallon containers or 7,975 gallons of hazardous waste with no more than 29 55-gallon containers or 1,595 gallons stored in each of 5 distinct containment areas. A maximum of two 5,500 gallon above ground storage tanks with one tank storing acid waste and one tank storing basic waste.
- e. Bulk solids storage area: One 20 cubic yard roll-off box of hazardous waste located in the repack area on the east side of the existing warehouse building. A maximum of six 20 cubic yard roll-off boxes of hazardous waste in the bulk solids storage area.

19. All hazardous waste storage and treatment activities shall be confined to the areas specified for those purposes in the approved FPOR.

20. Badger Disposal shall analyze each waste stream in accordance with the waste analysis procedures set forth in the waste analysis plan in Appendix D of the March 17, 2006 FPOR.

21. Prior to blending or bulking, the compatibility of the waste streams shall be evaluated by the direct mixing of samples of the wastes that are to be commingled.

22. Waste received from off-site shall be processed or moved into a container or tank storage area within 24 hours of the hazardous waste arriving at the facility.

23. Badger Disposal shall sign off on manifests within 24 hours of receipt of the wastes.
24. When storing containers two high, containers of equal or larger size or quantity shall be stored on the bottom level.
25. When containers greater than 20 gallons in size are stored 2 high, pallets shall be used to separate the first level from the second level.
26. A minimum aisle space of 3 feet between all of the rows of containers shall be maintained at all times. Lines shall be clearly marked on the floor to delineate the rows of containers from the aisles.
27. Containers shall be placed in the storage areas so that labels are visible from the aisles.
28. Placards shall be used to clearly identify the separate storage areas for the different types of hazardous wastes stored, such as poisons, reactive, corrosive, and ignitable wastes.
29. If a spill occurs in a containment pallet or on the floor, the containment pallet or floor shall be decontaminated in accordance with the FPOR before another type of waste is stored on the containment pallet or floor.
30. All uncontained wastes and accumulated liquids, such as precipitation and wash waters, located within the secondary containment systems shall be removed from the diked area daily and managed as hazardous or nonhazardous waste, in accordance with the FPOR and chs. NR 660 to 679 or chs. NR 500 to 555, Wis. Adm. Code.
31. Badger Disposal may not store materials or equipment whose volume will adversely affect the secondary containment capacity of the storage or treatment units, other than the equipment considered in the secondary containment system calculations included in the FPOR.
32. All concrete-surfaced secondary containment structures shall be re-sealed or repaired with a chemically resistant material as needed to maintain an impervious surface.
33. Badger Disposal may not store more than 10 pounds of each type of the dioxin precursors (e.g. chlorobenzenes, chlorophenols, phenol or U019 benzene) or dioxin containing wastes until the following procedures are completed and written approval is received from the Department.
 - a. Evaluate and, if necessary, revise the closure cost estimate to account for storing or treating increased quantities of dioxin wastes.
 - b. Increase the financial assurance if the revised closure cost estimate is greater than the amount of the existing closure financial assurance.
 - c. Submit the revised closure cost estimate and closure financial assurance to the Department for review and approval.

Specific Conditions – Existing Warehouse Building and the Addition

34. The storage of containers of nonhazardous waste is subject to the requirements stated in the solid waste license and chs. NR 500 to 555, Wis. Adm. Code.
35. Containers of hazardous waste liquids and lab pack drums shall be placed on spill pallets.
36. Containers of hazardous waste solids and lab packs may be stacked two high. Containers of hazardous waste liquids shall be stored on a single level.
37. Containers of nonhazardous waste and containers of hazardous waste may not be stored on the same spill containment pallet.
38. The containers shall be stored in the existing warehouse in the configuration depicted on drawing #05490-D1 dated 08/25/2006 except that containers of hazardous waste may not be stored in the two rows with no aisle space.
39. Containers of ignitable or reactive waste shall be located more than 50 feet from the property line except when containers are staged for loading or unloading onto a vehicle in the north loading dock (Dock #1). These staging activities shall be limited to the same calendar day as the waste delivery or pick-up day.
40. When containers are combined with other containers in the lab packs, the containers may not be opened. The contents of containers in the lab packs may not be combined with the contents of any other containers in the lab packs.

Specific Conditions – Construction of New Units

41. Badger Disposal may not treat or store hazardous waste in a newly constructed, modified or expanded portion of the facility until the following procedures are completed and written approval is received from the Department. Changes in the types of hazardous waste handled or in the processes or equipment used to treat, store or dispose of hazardous wastes are examples which may constitute a facility expansion or modification.
 - a. Badger Disposal shall notify the Department at least 30 days prior to initiating construction at the site.
 - b. The proposed hazardous waste storage or treatment units shall be constructed in accordance with the approved FPOR, this conditional approval, the container standards stated in ch. NR 664 subch. I and the tank and ancillary equipment standards stated in ch. NR 664 subch. J, Wis. Adm. Code.
 - c. If the proposed construction of the storage or treatment unit does not meet the specifications stated in the approved FPOR, a modification request shall be submitted to the Department in accordance with s. NR 670.042, Wis. Adm. Code.
 - d. Within 15 days after completing construction, a written statement shall be submitted to the Department certifying that the facility was constructed in substantial compliance with the approved FPOR or subsequent modification approval, as required by s. NR 664.0025, Wis. Adm. Code.

- e. Technical data, such as design drawings, design specifications and engineering studies shall be certified by a registered professional engineer.
- f. The Department has inspected the newly constructed units or waived the construction inspection.

42. Before operating any RCRA air emission control devices constructed after the issuance of this determination, Badger Disposal shall submit to the Department a letter signed by an authorized representative and a registered professional engineer. The letter shall state that the portions of the facility covered by this approval (including all air emission control devices required by this approval) have been constructed in compliance with the applicable conditions of this approval. The air emission control devices may not be operated until either:

- a. The Department has inspected those portions of the facility and finds them in compliance with the conditions of this approval; or
- b. The Department waives the inspection, if the inspection is not conducted within 30 days from the receipt of the certification.

43. The notification of construction for the bulk solids storage area shall include a description of the procedures that will be followed to assure compliance with the containment standards stated in s. NR 664.0175(3), Wis. Adm. Code.

44. Sufficient aisle space shall be maintained in the bulk solids storage area to allow for unobstructed movement of personnel and equipment in an emergency and to allow for inspections of the storage area.

45. F020, F021, F022, F023, F026 or F027 wastes may not be stored in the bulk solids storage area unless the containment requirements of s. NR 664.0175(2), Wis. Adm. Code, are met.

46. The following detailed information shall be included with the notification of construction for the tank farm:

- a. Spill containment calculations for the proposed tank farm which clearly indicates adequate containment capacity for the volume of one storage tank and a 25 year, 24 hour storm (see page 1 of Appendix A in Appendix H of the March 2006 FPOR).
- b. A revised plan for the tank farm loading/unloading pad which provides a minimum containment capacity for one 6,000 gallon tanker truck (see page 1 of Appendix A in Appendix H of the March 2006 FPOR).
- c. A description of the monitoring that will be conducted regularly on the ancillary equipment (see page 5-2 of the March 2006 FPOR).
- d. Specifications regarding containment and detection of releases, as required by s. NR 664.0193, Wis. Adm. Code.

47. Badger Disposal shall obtain and submit to the Department a written assessment for each new tank system or component, in accordance with s. NR 664.0192, Wis. Adm. Code, at least 30 days before the tank is used to store or treat hazardous waste.

48. The following detailed information shall be included with the notification of construction of the lab pack building:

- a. Specifications for the liner used in the carbon steel storage tanks demonstrating chemical compatibility between the liner and the corrosive wastes stored in the tanks (see page 20 of Appendix K of the FPOR).
- b. Specifications regarding containment and detection of releases, as required by s. NR 664.0193, Wis. Adm. Code.

49. All containers that are being unpacked in the lab pack bays shall be moved back into the licensed container storage areas in the lab pack building by the end of the calendar day. The drum into which wastes are being packed may remain in the lab pack bay and shall meet the container standards stated in subch. I of ch. NR 664, Wis. Adm. Code.

Dated: June 29, 2007

WISCONSIN DEPARTMENT OF NATURAL RESOURCES
For the Secretary



Franklin C. Schultz
Waste and Materials Management Program Supervisor
Southeast Region



Sandra Miller
Waste and Materials Management Specialist
Licensing and Policy Review Coordinator

NOTICE OF APPEAL RIGHTS

If you believe you have a right to challenge this decision made by the Department, you should know that Wisconsin statutes, administrative codes and case law establish time periods and requirements for reviewing Department decisions.

To seek judicial review of the Department's decision, sections 227.52 and 227.53, Stats., establish criteria for filing a petition for judicial review. Such a petition shall be filed with the appropriate circuit court and shall be served on the Department. The petition shall name the Department of Natural Resources as the respondent.



May 22, 2007

Mr. Michael Beedle
Environmental Scientist
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard, DE-9J
Chicago, Illinois 60604

RE: Notice of Violation resulting from a Compliance Evaluation Inspection
U.S. EPA I.D. No: WID988580056

Dear Mr. Beedle,

This letter is a written response to a notice of violation that we received on April 30, 2007. Badger Disposal acknowledges the alleged violations described in the Notice of Violation. The following is an explanation of actions Badger Disposal has taken to correct these alleged violations.

1. Waste Analysis Plan not followed according to FPOR Specific Condition 51

Analytical results on the drums in question showed that the waste was corrosive. Since Badger Disposal is able to receive corrosive material, the drums were not determined to be unacceptable and they were not rejected. The material did not match the profile under which it was shipped. However, the generator had another profile for corrosive aqueous waste. Therefore, the material was received under the alternate profile. The generator was notified, a discrepancy was indicated on the manifest and the drums were received under the alternate profile. Badger Disposal is now in compliance with its Waste Analysis Plan and certifies that we will continue to comply with our Waste Analysis Plan.

2. Containers not re-containerized according to FPOR Specific Condition 74

At the time of the inspection there were four (4) drums in the facility that needed to be recontainerized. Two (2) of the drums were bulked and shipped offsite the next day, and the other two (2) drums were overpacked. As part of our receiving procedure and per our Inspection Schedule, Badger Disposal will inspect the integrity of all incoming containers. If a container holding waste has apparent structural defects, shows signs of severe rusting, appears to be in poor condition, or begins leaking, Badger Disposal will immediately transfer the waste from the failed container to another container that is in good condition.

3. Incompatible containers contrary to FPOR Specific Condition 75

Badger Disposal has implemented a policy not to allow acidic corrosive waste to be received in steel drums. A notice to that affect has been mailed to all of our customers. A copy of the notice is included with this letter

4. Structurally unsound containers contrary to FPOR Specific Condition 78

As indicated in Item 2, the material was transferred out of two (2) of the containers and the other two (2) containers were overpacked. As part of our receiving procedure and per our Inspection Schedule, Badger Disposal will inspect the integrity of all incoming containers. If a container holding waste has apparent structural defects, shows signs of sever rusting, appears to be in poor condition, or begins leaking , Badger Disposal will immediately transfer the waste from the failed container to another container that is in good condition. A notice has been sent to all of our customers regarding this issue. A copy of this notice is included with this letter.

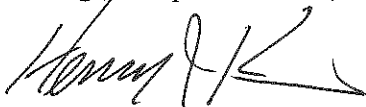
5. Incorrect waste determination contrary to WAC NR 662.010(8) and 662.011

Badger Disposal will make every effort to correctly identify through testing and/or applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used. All future shipment of hazardous waste from Badger Disposal will comply with the generator standards established in WAC NR 662.010(8) and 662.011.

6. Incorrect shipping description contrary to WAC NR 662.010(8) and 662.020(1)

All outgoing shipping names for hazardous waste will match the incoming shipping names on future manifests.

Sincerely,
Badger Disposal of WI., Inc.

A handwritten signature in black ink, appearing to read "Henry J. Krier", with a stylized flourish at the end.

Henry J. Krier

cc: Sandy Miller, WDNR



TO OUR VALUED CUSTOMERS

As part of our facility receiving procedure and per our Inspection Schedule, Badger Disposal inspects the integrity of all incoming containers. If a container holding waste has apparent structural defects, shows signs of severe rusting, appears to be in poor condition, or begins leaking, Badger Disposal will immediately transfer the waste from the failed container to another container that is in good condition.


Any containers needing to be recontainerized will be assessed a \$50 handling fee per container plus the cost of the new container.



TO OUR VALUED CUSTOMERS

As part of our facility receiving procedure and in order to maintain compliance with our Feasibility and Plan of Operation Report Determination, Badger Disposal will not accept acidic corrosive waste in steel drums. Thank you for assisting us in maintaining compliance with State and Federal regulations.

Terry Stanuch /R5/USEPA/US
04/26/2007 08:33 PM

To Michael Beedle/R5/USEPA/US@EPA
cc Paul Little/R5/USEPA/US@EPA
bcc
Subject Badger NOV 

Hi, Mike. My understanding is that we want to issue this NOV, or at least fax it, before the public comment period closes, which I was told is tomorrow, Friday, at 1:00. So, here it is. Sorry for the delay, thank you for your patience, and hope you like it. Any questions or comments, please call.



Badger revised NOV.doc



Waste, Pesticides and Toxics Division

Type of Document: **Notice of Violation and Inspection Report/Checklist**

Facility Name and Location: Badger Disposal of WI, Inc.
5611 West Hemlock Street
Milwaukee, Wisconsin 53223

U.S. EPA ID#: WID988580056

Assigned Staff: Michael Beedle

Phone: 3.7922

Name	Signature	Date
Author	Michael Beedle	3.8.07
Regional Counsel	Terry Stanuch per Attached email	4.26.07
Section Chief	PL [Signature]	4.27-07

Directions/Request for Clerical Support:

After the Section Chief signs this sheet and original letter:

1. Date stamp the cover letter;
2. Make at least five copies of the contents of this folder for the:
assigned staff;
section file;
branch file;
ORC assigned staff; and
official file copy for the 7th floor that includes the original inspection report, and
any additional copies for cc's or bcc's.
4. Mail the original certified mail and distribute office copies and cc's and bcc's.
Once the certified mail receipt is returned:
5. File the certified mail receipt (green card), with this sign-off sheet and the official file copy,
and take to 7th floor RCRA file room.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 27 2007

REPLY TO THE ATTENTION OF:

DE-9J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Henry Krier
Badger Disposal of WI, Inc.
5611 West Hemlock Street
Milwaukee, Wisconsin 53223

Re: Notice of Violation resulting from a Compliance Evaluation Inspection
U.S. EPA I.D. No.: WID988580056

Dear Mr. Krier:

On December 7, 2006, representatives of the United States Environmental Protection Agency (U.S. EPA) and Wisconsin Department of Natural Resources (WDNR) inspected Badger Disposal of WI located in Milwaukee, Wisconsin. The purpose of this inspection was to evaluate Badger Disposal's compliance with certain provisions of the Resource Conservation and Recovery Act (RCRA), as codified in the Wisconsin Administrative Code (WAC), and with the Feasibility and Plan of Operation Report (FPOR) Determination for your facility. The federal regulations implementing RCRA are codified in the United States Code of Federal Regulations (CFR). Please find enclosed a copy of the inspection report for your reference.

Based upon the information provided by Badger Disposal personnel and a review of its records, and observations made by the inspector during the investigation, U.S. EPA has determined that Badger Disposal has violated the following requirements of its FPOR Determination and the WAC.

1. Waste Analysis Plan not followed according to FPOR Specific Condition 51
See WAC NR 664.0013(2) and 40 CFR § 264.13(b).

FPOR 51 states that Badger Disposal shall follow the waste acceptance and rejection procedures and sampling procedures outlined in their Waste Analysis Plan. Section 5.1 of the Waste Analysis Plan states, in part:

"If, after analysis, results are not representative of the manifest description, the operations manager is informed and the proper steps are taken to rectify the discrepancy as set for in the rejection procedure described in Section 6 of this plan."

Section 6.1 of the Waste Analysis Plan states, in part:

“If, after analysis or inspection, it is determined that a load or portion of a load of containers is unacceptable, the generator and/or transporter are informed and the unacceptable containers are returned to the generator with the rejected containers indicated in Section 19 of the manifest. A copy of the manifest is also sent to the generator as required.”

At the time of the inspection, records indicated that Badger Disposal had received containerized waste from two generators and that this waste did not meet the waste profiles and manifest descriptions provided by the two generators. Badger Disposal's pH analyses of the containerized wastes indicated that the wastes were corrosive, and these analyses did not match the profiles and manifests associated with this waste. However, Badger Disposal did not reject the containers as required by the Waste Analysis Plan.

2. Containers not re-containerized according to FPOR Specific Condition 74
See WAC NR 664.0171 and 40 CFR § 264.171.

FPOR 74 states that if a container is not in good condition or if the contents of a storage container begin to leak, the hazardous waste in the container shall be re-containerized into a storage container in good condition.

At the time of the inspection, there were at least four (4) containers in poor condition which Badger Disposal had not re-containerized. However, Badger Disposal did re-containerized these containers after the inspection.

3. Incompatible containers contrary to FPOR Specific Condition 75
See WAC NR 664.0172 and 40 CFR § 264.172.

FPOR 75 states that containers shall be made or lined with materials which will not react with, or are otherwise incompatible with, the hazardous waste to be stored so that the ability of the container to contain the waste is not impaired.

At the time of the inspection, Badger Disposal was storing acidic corrosive waste in a steel drum which was incompatible with its contents because acid reacts with steel and impairs the ability of a steel container to contain the waste.

4. Structurally unsound containers contrary to FPOR Specific Condition 78
See WAC NR 664.0171 and 40 CFR § 264.171.

FPOR 78 states that containers used to store hazardous waste shall be structurally sound, U.S. DOT approved containers.

At the time of the inspection, Badger Disposal was storing at least four (4) containers that were obviously not structurally sound. For example, one of the drums actually had a visible hole in its side.

5. Incorrect waste determination contrary to WAC NR 662.010(8) and 662.011
See 40 CFR §§ 262.10(h) and 262.11.

WAC NR 662.010(8) [see 40 CFR § 262.10(h)] states that an owner or operator who initiates a shipment of hazardous waste from a treatment, storage or disposal facility shall comply with the generator standards established in this subchapter, including NR 662.011.

WAC NR 662.011 [see 40 CFR 262.11] states, in part, that a person who generates a solid waste shall determine if that waste is a hazardous waste using any of several methods.

Badger Disposal generated one drum of hazardous waste that was rejected by the designated disposal facility in Missouri for having a different hazardous characteristic (i.e. corrosivity) than the waste profile that Badger Disposal stated on the manifest and drum. Badger Disposal did not correctly identify and list this drum's hazardous waste.

6. Incorrect shipping description contrary to WAC NR 662.010(8) and 662.020(1)
See 40 CFR §§ 262.10(h) and 262.20(a)(1).

WAC NR 662.010(8) [see 40 CFR § 262.10(h)] states that an owner or operator who initiates a shipment of hazardous waste from a treatment, storage or disposal facility shall comply with the generator standards established in this subchapter, including NR 662.020.

WAC NR 662.020(1) [see 40 CFR § 262.20 (a)(1)] states, in part, that a generator who transports, or offers for transport a hazardous waste for offsite treatment, storage, or disposal shall prepare a manifest according to the instructions in the Appendix to 40 CFR Part 262.

Item 9b in the Appendix to 40 CFR Part 262 states, in part, that the U.S. DOT Proper Shipping Name for each waste as identified in 49 CFR 172 shall be entered on the manifest.

On Missouri Manifest Document Number 02955 0452, Badger Disposal sent fifty-six (56) drums of hazardous waste to Continental Cement Company in Hannibal, Missouri. All of the drums were shipped under the U.S. DOT Shipping Name "Printing Ink." One of these drums was rejected because of it was characteristic corrosive and, therefore, "Printing Ink" is not the U.S. DOT Proper Shipping Name for this drum. In addition, the Inventory Backward Tracking information that Badger Disposal provided to correspond with this manifest indicated that there were three (3) additional U.S. DOT Proper Shipping Names used by generators for the drums received by Badger that were shipped on this manifest. The other U.S. DOT Proper Shipping Names were "Flammable Liquid n.o.s.," "Paint related material," and "Isopropyl alcohol."

Badger Disposal did not use any of these three U.S. DOT Proper Shipping Names for any of the drums listed on this Missouri manifest.

Pursuant to section 3008(a) of RCRA, 42 U.S.C. § 6928(a), U.S. EPA may issue an order which assesses a civil penalty for any past or current violation of RCRA and which requires compliance immediately, or within a specified time period. Although this Notice is not such an order, you are hereby requested to submit a written response to this Notice no later than thirty (30) days after your receipt of this Notice. Your response should include the following:


1. An acknowledgement that the alleged violations described above are accurate or, if they are not, an explanation as to why they are not;
2. An explanation as to what actions Badger Disposal has taken to correct these alleged violations;
3. A certification that Badger Disposal is now in compliance with its March 2006 Waste Analysis Plan; and
4. A certification that Badger Disposal will continue to comply with its Waste Analysis Plan.

Your response should be sent to:

Michael Beedle
Environmental Scientist
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard, DE-9J
Chicago, Illinois 60604.

You may contact Mr. Beedle at (312) 353-7922 if you have any questions regarding this Notice. The Agency looks forward to working with you to resolve this matter in an expeditious manner.

Sincerely yours,



Paul Little, Chief
Compliance Section # 2
Enforcement and Compliance Assurance Branch
Waste, Pesticides and Toxics Division

Enclosure

cc: Sandy Miller, WDNR



April 10, 2007

Donald P. Gallo, Esq. P.E.
Direct Dial: 262-951-4555
dgallo@reinhardtlaw.com

**CERTIFIED MAIL – RETURN
RECEIPT REQUESTED**

Wen C. Huang, P.E.
Waste Management Branch
DW-8J
U.S. EPA Region 5
77 West Jackson Blvd
Chicago, IL 60604



Dear Mr. Huang :

Re: Preliminary Determination to Issue
Federal Permit for a Hazardous Waste
Storage and Treatment Facility (the
"Preliminary Determination") at Badger
Disposal of Wisconsin, Inc., 5611 West
Hemlock Street, Milwaukee, Wisconsin
-- EPA ID# WID988580056 (the
"Facility")

In accordance with 40 C.F.R. Sections 124.11 to 124.13, I write on behalf of EOG Environmental ("EOG") to provide written comments on the U.S. Environmental Protection Agency's ("EPA") Preliminary Determination, which addresses the storage and treatment of certain waste types, land disposal restriction requirements and applicable organic air emissions from the hazardous waste storage and treatment units at the Facility, which is the subject of the February 28, 2007 Legal Notice attached at Exhibit A.

EOG has an interest in this matter, because it was a tenant on property that is adjacent to the Badger Disposal of Wisconsin, Inc. ("Badger") facility at issue in this matter, EOG is a historic customer of the Facility, and EOG is concerned with

P.O. Box 2265, Waukesha, WI 53187-2265 • W233 N2080 Ridgeview Parkway, Waukesha, WI 53187
Telephone: 262-951-4500 • Facsimile: 262-951-4690 • Toll Free: 800-928-5529

Madison, WI • Telephone: 608-229-2200 • Toll Free: 800-728-6239
Milwaukee, WI • Telephone: 414-298-1000 • Toll Free: 800-553-6215
Rockford, IL • Telephone: 815-633-5300 • Toll Free: 800-840-5420

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Badger's historical and current non-compliant conditions which exist and have existed at the Facility.

EOG is providing these comments on the Preliminary Determination, because, as both an adjacent tenant (albeit historical) to the Facility and a historical customer of Badger, EOG has concerns about its potential liability arising from Badger's non-compliant activities at the Facility and non-compliant conditions which exist and have existed at the Facility and the potential for EOG and other customers of Badger becoming liable for cleanup and site restoration of the Badger facility.

The nature of EOG's concerns is as follows:

- Objections to the Preliminary Determination:
 - Badger is being **rewarded** with a 10-year renewal of its existing federal permit **in spite** of (a) its horrendous environmental compliance record {see immediately below a list of at least twenty (20) EPA &/or OSHA &/or DOT violations, all of which are corroborated by either photographs, Badger's own comments, or the WDNR's own records, i.e., CARs & WDNR photographs}, and (b) being in obvious non-conformance with one of the key purposes of the federal Part B renewal system (see Congressional testimony prior to RCRA passage) which is to preclude those facilities which have had over a year of continuing environmental non-compliances from their continued operations (Badger has had over a year and a half of such continued environmental non-compliances, see EPA's own www.epa.gov/echo reports, and if the first item below is included, **continuing violations to this very day**)
 - Badger's existing facility simply cannot physically conduct Fuels Blending *if* all of the environmental regulatory requirements are met (again, especially if the first item below is properly enforced)
 - The WDNR has admitted, for example, in its January 18, 2007 letter, Item 1 to Mr. Powals, that it has failed to properly enforce the environmental regulations, and as a result, we would hope that the EPA would properly execute its legal responsibility and properly enforce all of the environmental requirements upon Badger, not only currently, but for all of Badger's past violations

Wen C. Huang, P.E.

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- Numerous times in the FPOR existing and potential future situations at the Badger site are commingled, and in each case, these situations give the incorrect impression that Badger is in compliance, when in fact, the current Badger environmental non-compliant situation must be explicitly stated in the FPOR, and potential future compliant situations provided in a separate addendum or appendix. For example, the site plan by Spectrum shows the Badger facility's property lines larger than currently authorized, and, furthermore, no currently licensed P.E. stamp & signature is included on this or any of the other drawings.
- Badger's non-compliant activities at the Facility, including, but not limited to the following:
 - Improper fence location {40 CFR 264.14(b)(2)(i & ii)}
 - Uncontrolled fence security {40 CFR 264.14(b)(2)(i & ii)}
 - Hundreds of hazardous waste drums stored outdoors and outside containment on numerous occasions {40 CFR 264.176, 40 CFR 264.193(a), 49 CFR Part 172, 49 CFR 173.28, 40 CFR 401.12(a), 40 CFR 125, 40 CFR 400}
 - Hundreds of hazardous waste drums stored outdoors improperly labeled (*if* "empty") {40 CFR 264.176, 40 CFR Part 172, 40 CFR 401.12(a), 40 CFR 125, 40 CFR 400}
 - Unauthorized soils excavation {40 CFR 264.193(a), existing Badger permit}
 - Contaminated soils excavation {40 CFR 264.193(a), 40 CFR 264.196, 40 CFR 264.197, existing Badger permit}
 - Inadequate contaminated soils excavation sampling and analysis {40 CFR 264.196, 40 CFR 264.197, existing Badger permit}
 - August 17, 2005 fire, fire verifying release {40 CFR 264.177, 40 CFR 264.193(a), Badger Report of Fire}
 - Inadequate Badger Personnel Experience & Training {40 CFR 264.16(a)(2), 40 CFR 264.16(b)}
 - Inappropriate Mixing of Wastes {40 CFR 264.177(a)}
 - Temporary Authorization for Fuel Blending {40 CFR 264.176}
 - Poor condition drums {40 CFR 264.171}
 - pH=1.0 material in steel drum {40 CFR 264.172}
 - Manifest discrepancies {40 CFR 264.72}

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- Aisle space violations {40 CFR 264.35}
- Failure to include all waste codes in Operating Record {40 CFR 264.73}
- Failure to at all times keep ignitable drums more than 50 ft. from property line {40 CFR 264.176}
- Failure to separate incompatible hazardous wastes inside the Badger facility {40 CFR 264.177}
- Failure to preclude hazardous waste constituents discharge to the sewer system {40 CFR 264.175(b)(4)}
- Continuing Badger EPA ECHO Non-compliances Report {see www.epa.gov/echo, Apr-Jun 05, Jul-Sep 05, Oct-Dec 05, Jan-Mar 06, Apr-Jun 06, Jul-Sep 06}
- The Facility's past and present non-compliant and/or contaminated condition
 - A 2005 fire occurred on uncontained abraded asphalt
 - Arguably contaminated soils were excavated in runoff area (from metals fire water and stormwater)
 - Inappropriate and misleading soil sampling occurred in the runoff area
- Various Badger misstatements to the WDNR

These issues with corroboratory photographs were explained in more detail in my February 6, 2007 letters to the WDNR's Franklin C. Schultz and Mark Drews, copies of which are submitted as supporting material at Exhibit B. Please note that you were copied on the letter to Franklin Schultz.

For the reasons set forth above, EOG also hereby gives notice of its opposition to the EPA's Preliminary Determination. EOG also objects to the WDNR's Preliminary Determination to Conditionally Approve a Feasibility and Plan of Operation Report for a Hazardous Waste Storage and Treatment Facility at Badger Disposal of Wisconsin, Inc., 5611 West Hemlock Street, Milwaukee, Wisconsin -- EPA ID# WID988580056, as set forth in EOG's April 10, 2007 letter to the WDNR (on which you were copied).

[NOTE THAT UNDER 40 CFR 124.13 – ALL PERSONS WHO BELIEVE ANY CONDITION OF A DRAFT PERMIT OR THAT DIRECTOR'S TENTATIVE DECISION (REGARDING APPLICATION OR PERMIT) IS INAPPROPRIATE MUST RAISE ALL REASONABLY ASCERTAINABLE ISSUES AND SUBMIT

Wen C. Huang, P.E.
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ALL REASONABLY AVAILABLE ARGUMENTS SUPPORTING THEIR
POSITION . . . INCLUDE SUPPORTING MATERIALS IN FULL]

Please contact Richard J. Powals, P.E. at 414-353-1156 ext. 234, or, at 248-770-0514 if you have any questions regarding EOG's comments, or if you need any additional information. Thank you.

Yours very truly,



Donald P. Gallo

Waukesha\50410DPG:CAS

Enc.

cc Ms. Sandy Miller (w/enc.)
Mr. Paul Little (w/enc.)
Mr. Michael C. Vilione (w/enc.)
Richard J. Powals, P.E. (w/enc.)



Legal Notices

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the request is granted, the hearing will be conducted as an informational hearing utilizing the procedures in s. NR 2.135, Wis. Adm. Code, unless the request filed indicates that the hearing is to be conducted as a contested case hearing, as provided by s. 289.27, Stats., and the request indicates that:

- (a) a substantial interest of the person or persons filing the request is injured in fact or threatened with injury by the Department's action or inaction;
- (b) the injury to the person requesting the hearing is different in kind or degree from injury to the general public caused by the Department's action or inaction; and
- (c) there is a dispute of material fact.

All hearing requests shall be filed with the Department within 45 days of the publication date of this notice either by delivery to the Office of the Secretary of the Department at 101 South Webster St., Madison, Wisconsin 53703, or by certified mail addressed to the Secretary, Department of Natural Resources, PO Box 7921, Madison, WI 53707-7921.

The U.S. EPA draft permit which addresses the storage and treatment of certain waste types, land disposal restriction requirements and applicable organic air emissions from the hazardous waste storage and treatment units is available for public review at the U.S. EPA Region 5 office in Chicago, Illinois. Requests to view these materials and/or requests for additional information should be made by contacting Wen Huang at (312) 886-6191 or by writing to him at Waste Management Branch, DW-8J, U.S. EPA Region 5, 77 West Jackson Blvd, Chicago, IL 60604.

Written comments on the federal permit will be accepted by the U.S. EPA at the above address through April 29, 2007. Written comments and requests for a public hearing on the federal permit must meet the requirements of 40 CFR Sections 124.11 to 124.13, which are similar to the state procedures described previously. A request for a public hearing shall be in writing and state the nature of the issues to be addressed at the hearing. The U.S. EPA will send a Notice of Decision in regard to the EPA permit to the facility owner/operator and any person who submitted public comments or requested notice of the final permit decision.

Comments received during the public comment period will be reviewed by the Department before making a final determination regarding the FPOR and by the U.S. EPA before making a final determination on the federal permit. The Department will prepare a response to all significant comments received on the FPOR and specify which provisions of the conditional approval were changed. The U.S. EPA will prepare a response to all significant comments received on the draft permit and specify which provisions of the draft permit were changed. The Department and U.S. EPA will also indicate whether additional documents have been included in their administrative records.

Reasonable accommodation, including the provision of informational material in an alternative format, will be provided for qualified individuals with disabilities upon request. Dated at Milwaukee, Wisconsin on February 28, 2007.

STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES
for the Secretary
Franklin C. Schultz
Waste and Materials
Management Program
Supervisor
Southeast Region

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WNAXLP

U.S. EPA reviewed the FPOR to determine if there is a need to continue operating the hazardous waste storage and treatment facility, establish any conditions necessary for proper operation of the facility and determine how the facility will operate in accordance with the storage and treatment facility requirements stated in chapters NR 660 to 679, Wis. Adm. Code. The facility is seeking to renew its current hazardous waste storage facility license which was issued December 16, 1996. The current license remains in effect until such time as the FPOR is approved or denied. The proposed license re-issuance is for the storage of 69,795 gallons of hazardous waste in containers and 61,000 gallons of hazardous waste in tanks. On August 23, 1996, the Department issued a recycling exemption approval to Badger Disposal for fuel blending operations. Due to the adoption of new hazardous waste rules in Wisconsin, the fuel blending activities conducted at Badger Disposal are now subject to the treatment facility licensing requirements. Therefore, as a part of re-licensing, Badger Disposal will also receive a treatment license for the same fuel blending activities previously allowed by the August 23, 1996 Department approval. No major operational changes at the facility are being proposed. Badger Disposal is not changing their waste management activities; rather, the Department is changing administrative authority to regulate the fuel blending activity.

An environmental assessment, completed January 25, 1996 when Badger Disposal of Wisconsin, Inc., (formerly known as EOG Disposal, Inc.) was going through the initial licensing process, concluded that licensing would not be a major action significantly affecting the quality of human health and the environment. Since the facility has operated without major incident and no expansion or operational changes are proposed in the FPOR, the Department has made a preliminary determination reaffirming the decision that an environmental impact statement is not needed under section 1.11 of the Wisconsin Statutes.

A copy of the FPOR, the Department's preliminary determination, the initial environmental assessment, the press release reaffirming the decision of the initial environmental assessment and a fact sheet which summarizes information specific to the facility are available for public review at the following locations:

Department of Natural Resources, Milwaukee Central Public Library Southeast Region Headquarters, 814 West Wisconsin Avenue, 2300 N. Martin Luther King Drive, Milwaukee, Wisconsin
Pursuant to ss. 289.25(3), 289.26 and 1.11, Stats., the public is invited to submit written comments concerning the FPOR, the preliminary determination and the environmental assessment within 45 days from the date of publication of this notice or by April 29, 2007. Written comments should be sent to: Sandy Miller, Wisconsin Department of Natural Resources, 2300 N. King Drive, Milwaukee, WI 53223 or sandy.miller@wisconsin.gov.

Any county, city, village or town, the applicant or any six (6) or more persons may file a written request for a public hearing by sending it to the Secretary of the Department of Natural Resources within 45 days of the date of publication of this notice. The request shall indicate the interests of the municipality or persons who file the request and state the reasons why a hearing is requested. If

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BEFORE THE STATE OF WISCONSIN, NOTICE OF THE PRELIMINARY DETERMINATION TO CONDITIONALLY APPROVE A FEASIBILITY AND PLAN OF OPERATION REPORT FOR A HAZARDOUS WASTE STORAGE AND TREATMENT FACILITY AT BADGER DISPOSAL OF WISCONSIN, INC., IN MILWAUKEE, WISCONSIN EPA ID#: WID988580056 NOTICE IS HEREBY GIVEN, pursuant to ss. NR 670.404 and NR 670.410(1), Wis. Adm. Code, and s. 289.25(3),

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Stats., that the Department of Natural Resources (Department) and the United States Environmental Protection Agency (U.S. EPA) have made a preliminary determination that the Feasibility and Plan of Operation Report (FPOR) submitted for the re-issuance of an operating license for a hazardous waste storage facility at Badger Disposal of Wisconsin, Inc., is complete and technically adequate. The Department has made a preliminary determination to conditionally approve the FPOR and the U.S. EPA has made a preliminary determination to issue a federal permit. Badger Disposal of Wisconsin, Inc. (Badger Disposal) is located at 5611 West Hemlock Street in Milwaukee, Wisconsin. The preliminary determination also includes a conditional approval and a draft federal permit for the treatment of hazardous waste. The treatment activity is the fuel blending of hazardous waste which was previously approved by the Department as a recycling exemption but is now subject to the treatment facility licensing requirements due to a change in Wisconsin's hazardous waste rules. The Department and

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